

**MEETING TITLE AND DATE:**

Cabinet - 22 January 2020

**REPORT OF:**Executive Director of  
Place

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**Agenda – Part:****Item: 5****Subject:** Proposal to implement a borough-wide additional licensing scheme and a selective licensing scheme in 14 wards.**Wards: All****Key Decision No: KD 4999****Cabinet Member consulted:****Cllr George Savva****1. EXECUTIVE SUMMARY**

- 1.1 The private rented sector in the borough is rapidly growing and is increasingly relied upon by Enfield's residents to meet their housing needs. Tackling poor housing conditions and improvement of the quality of the private rented sector is a key contributor towards the Corporate Plan's objective to provide '*Good homes in well-connected neighbourhoods*'. A good quality and well managed private rented sector will also encourage residents and their neighbours to stay in Enfield and in turn '*sustain strong and healthy communities*' which is another objective of the Corporate Plan. Well managed and good quality private rented properties also contribute towards the perception and quality of the neighbourhood and will help '*build our local economy to create a thriving place*'.
- 1.2 One of the key emerging aims of the Council's proposed new Housing Strategy 2020 – 2030 is to achieve "quality and variety in private sector homes", with a range of priorities being considered to improve quality of the private rented sector. The Council's proposed new Preventing Homelessness and Rough Sleeping Strategy 2020- 2025 includes the ambition to support people to access the right accommodation, which also focuses on improving the conditions and security of the private rented sector.
- 1.3 A review of the private rented sector in the borough found evidence of significant levels of poor housing conditions, deprivation, anti-social behaviour, in both single household private lets (selective licensable properties) and Houses in Multiple Occupation (HMOs) that would fall under additional HMO licencing. In addition, the review found significant poor management of Houses in Multiple Occupation (HMOs) that would fall under an additional HMO licensing, and causing problems for the occupants and residents. Existing measures alone, such as enforcement under Part 1 of the Housing Act 2004, are not having the required impact to address the large-scale improvements that are needed in the borough's private rented sector.

- 1.4 Under Part 3 of the Housing Act 2004, local authorities may designate an area as subject to Selective Licensing, requiring those managing or having control of privately rented accommodation (that does not have to be licensed under other licensing schemes) to obtain a licence. These are properties occupied by a single household.
- 1.5 In order to designate an area as a Selective Licensing area, the local authority must be satisfied that at least one of the prescribed criteria are met. The evidence (*Appendix 3*) demonstrates that 3 of the 6 criteria are met. There are:
- significant numbers of private rented properties that have poor housing conditions and need inspection,
  - the area is suffering high levels of deprivation and affect a significant number of private rented properties, and
  - the area is experiencing significant and persistent anti-social behaviour and appropriate action is not being taken by private sector landlords.
- 1.6 The evidence supports two proposed selective licensing schemes (designations). The first designation includes 13 wards meeting the criteria for poor housing conditions, deprivation and anti-social behaviour – Bowes, Edmonton Green, Enfield Highway, Enfield Lock, Haselbury, Jubilee, Lower Edmonton, Palmers Green, Ponders End, Southbury, Southgate Green, Turkey Street and Upper Edmonton. The second designation meets the criteria for poor housing conditions and deprivation and is 1 ward - Chase.
- 1.7 As the proposed selective licensing designation would affect more than 20% of the privately rented homes in the area, the local authority must apply to the Secretary of State for MHCLG for confirmation of the scheme.
- 1.8 Part 2 of the Housing Act 2004 allows local authorities to designate an area as subject to an Additional HMO Licensing Scheme, requiring those managing or having control of HMOs (that are not subject to mandatory licensing) to obtain a licence. These are properties occupied by 3 or 4 persons who do not form a single household and share amenities.
- 1.9 In order to designate an Additional Licensing Scheme, the local authority must consider that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively, so as to give rise to one or more problems either for those occupying the HMOs or for the public.
- 1.10 The current estimation is that there are 9,661 HMOs across the borough, of which we would expect to find that approximately 915 are actually Mandatory HMOs. The evidence (*Appendix 3*) shows that the majority of these HMOs would fall into Additional Licensing (estimated 8,746), and that significant numbers of these HMOs have poor housing conditions and a significant level of antisocial behaviour, and are being ineffectively managed. HMOs are located throughout the borough.

- 1.11 The evidence supports a proposed additional licensing scheme (designation) for the whole borough.
- 1.12 In order to designate areas for selective and additional licensing, the Council must also consider if they are consistent with the authority's overall housing strategy, and also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector.
- 1.13 When considering whether to implement a selective or additional licensing scheme, the authority must also consider whether there are any other courses of action available to the Council that might provide an effective method of achieving the objectives that the licensing schemes seek to achieve, and whether the licensing schemes will significantly assist the Council achieve the objectives (whether or not they take any other course of action as well).
- 1.14 The fee paid by the applicant for a licence must be reasonable and proportionate to the cost of licensing schemes and shall not exceed the cost of the licensing schemes. Based on the estimation of costs, the proposed fee for a Selective Licensing property is £600 for up to five years, and the proposed fee for an Additional Licensing property is £900 for up to five years.
- 1.15 Sections 67 and 90 of the Housing Act 2004 allow local authorities to attach conditions to licences granted under additional and selective licensing schemes in order to regulate the management, use and occupation of the property (and in relation to HMOs to also regulate the condition of the property). This is in addition to the mandatory licence conditions that are required by the legislation. (*Appendix 8 and 9 - proposed licence conditions*)
- 1.16 If a local authority proposes to introduce an additional or selective licensing scheme (designation) it must take reasonable steps to consult persons who are likely to be affected by the designation(s), and consider any representations made in accordance with the consultation. The consultation must take place for not less than 10 weeks.
- 1.17 An extensive public consultation, widely publicised using various channels of communication, was undertaken for just over 13 weeks between 28 August and 29 November 2019 both inside and outside of the borough (regionally and nationally). This publicity included:
- Enfield Council's website
  - Newspaper adverts
  - A social media campaign
  - A digital media campaign
  - E-newsletters, direct emails and letters
  - A leaflet delivered to all residential addresses in the borough (127,000 properties) and 5,000 business addresses
  - Leaflets, posters and pull up banners in public buildings
  - Outdoor advertising; on-street Clear Channel advertising boards and banners

- 1.18 The consultation used a variety of formats to engage and seek feedback from key stakeholders such as landlords, letting/managing agents, private renting tenants, residents, organisations representing landlords, managing agents and private renters and businesses. These included:
- An online questionnaire hosted on M.E.L Research's website
  - Two public (face to face) meetings with landlords and agents
  - Two public (face to face) meetings with tenants and residents
  - Direct emails to over 2,500 stakeholders (2,132 of which were landlords)
  - A feedback form hosted on M.E.L Research's website
  - Provision of feedback via email or by telephone hosted by M.E.L
  - Interviews conducted with 9 key stakeholders
- 1.19 There were 1,861 responses received: 794 from the online survey and 1,067 from the face to face survey. Qualitative feedback was recorded at four public meetings attended by 241 persons, and 35 written responses were submitted by interested parties and via 10 stakeholder interviews/responses. In total 1,031 residents responded, 440 landlords and 365 private rented tenants and 25 other stakeholders (e.g. public bodies, organisations representing landlords).
- 1.20 There were high levels of support for the proposed licensing schemes and licence conditions (about 7 in 10 respondents), and just over half of the respondents found the proposed licence fees reasonable.
- 1.21 It appears that proportionally we received a greater number of responses to the public consultation from the landlord population than from private rented tenants or residents. As a group, landlords were generally opposed to the proposals. The online questionnaire results were less positive about the proposals than the face to face questionnaire (Appendix 1A, Appendix 5). This is not surprising as the online questionnaire is self-selecting (and landlords/agents were the highest respondent group) whereas the face to face survey was a random sample based on the borough's population.
- 1.22 Overall by group, Residents' responses were strongly supportive of the proposals (86% for selective licensing and 87% for additional HMO licensing), followed by Private Renting Tenants' responses who were also strongly supportive (81% each for selective licensing and additional HMO licensing). Landlords' responses were generally opposed to the proposed selective licensing (73% disagreed), and more than half were opposed to the additional HMO licensing scheme (56% disagreed with additional HMO licensing). Please see Appendices 1 and 1A.
- 1.23 Overall, the key outcomes of the public consultation were:
- 69% of respondents supported the introduction of selective licensing schemes
  - 72% of respondents supported the introduction of additional licensing scheme
  - 71% of respondents agreed with the proposed selective licensing conditions
  - 73% of respondents agreed with the proposed additional licensing conditions
  - 53% of respondents agreed the proposed selective licence fee is reasonable
  - 53% of respondents agreed the proposed additional licence fee is reasonable

- 1.24 There was a high level of engagement and 4,907 individual comments were received as part of the consultation regarding the proposed licensing schemes, licence conditions and fees, and suggested alternatives to licensing to address poor property conditions and management, high levels of deprivation and ASB.
- 1.25 The feedback from the consultation was carefully considered and is detailed in Appendix 2. Following this consideration, we do not propose to change the proposed schemes or licence fees but are proposing some amendments to licence conditions. As a result of feedback, the changes we have made are:
- The introduction of civil penalties for breaches of housing legislation as an additional enforcement tool (maximum fine of £30,000 for most severe cases)
  - Provide dedicated webpages on the Council's website with information for both tenants and landlords and signpost to any funding for grants (e.g. energy efficiency)
  - Include resources to support tenants and landlords such as tenancy relations and ASB officers
  - Easy means of reporting substandard properties (online 'report it' form and dedicated telephone line and email)
  - If there are concerns about the licence holder or management of the property, we may impose a condition requiring the licence holder to be accredited but this will be on a case by case basis if considered necessary
  - Allow for one (rather than several) selective licence application for buildings where all the flats are under common ownership/management if certain criteria are met
  - Propose to set up a stakeholder group involving landlords and letting agents operating in the borough to work with us on setting the guidance and information we provide to landlords
  - Removal of draft condition 3.5 from the additional and selective licence conditions (external property decorative order)
  - Removal of draft conditions 8.1, 8.2 and 8.3 from the additional licence conditions (responsibilities for Council Tax and payment)
- 1.26 Overall, the findings of the Equalities Impact Assessment (Appendix 10) were that the proposed selective and additional licensing schemes would positively impact private renters (particularly those most vulnerable), residents and also landlords by large scale improvement to housing conditions and management standards of private rented properties. Feedback from the public consultation raised concerns about potential issues such as the cost of licence fees being passed onto tenants in rent increases and a potential for increased evictions. The Licensing Team will work closely with the Homelessness Prevention Team to monitor this and act accordingly. There was also feedback that some landlords might have protected characteristics and experience short term negative financial impact in payment of the licence fees. This will be monitored during implementation if the schemes are approved.

## 2. RECOMMENDATIONS

Cabinet is recommended to:

- 2.1 Note that the evidence in *Appendix 3* supports the designations for two selective licensing schemes of 14 wards, and be satisfied that the designated areas have higher than the national average (19%) of private rented sector and exceeds the minimum criteria of 1 (of 6) and actually meets 3 of the legislative criteria (2 of the criteria for Chase ward\*), namely:
- significant numbers of private rented properties that have poor housing conditions (more than the national average of 15% category 1 hazards) and need inspection,\*
  - the areas are suffering high levels of deprivation (between 10-50% of the most deprived wards in the country) and affect a significant number of private rented properties,\* and
  - the areas are experiencing significant and persistent anti-social behaviour (higher than other wards in the borough) and appropriate action is not being taken by private sector landlords to combat ASB.
- 2.2 Note that the evidence in *Appendix 3* supports the designation for an additional licensing scheme for all 21 wards and be satisfied that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively, so as to give rise to one or more problems either for those occupying the HMOs or for the public, namely:
- significant numbers of HMOs have poor housing conditions (more than the national average of 15% category 1 hazards), and
  - the area is experiencing significant and persistent anti-social behaviour (across all wards in the borough) and appropriate action is not being taken by private sector landlords to combat ASB.
- 2.3 Consider the outcome of the public consultation in *Appendix 1 and 1A*, in particular the representations received and the Council's consideration of, and response to, these representations in *Appendix 2*.
- 2.4 Consider and agree that the objectives of the selective and additional licensing schemes are consistent with the Council's strategies and policies (*Appendix 3 section 16*) namely the Corporate Plan, the Housing Strategy, and will seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties, anti-social behaviour and poverty affecting the private rented sector.
- 2.5 Agree that other courses of action considered will not alone provide an effective method of achieving the objectives that the additional and selective licensing schemes seek to achieve (*Appendix 3 section 17 and Appendix 6*), and agree that the licensing schemes will significantly assist the Council achieve the objectives (as well as other course of action such as continued use of existing powers).

- 2.6 Agree that reasonable steps were taken to consult persons, for more than the required 10 weeks, who were likely to be affected by the designations (*Appendix 1*), and that the representations made in accordance with the consultation have been considered and changes made where appropriate (*Appendix 2*).
- 2.7 If Cabinet is satisfied upon consideration of the above matters and in exercise of its powers under section 80 of the Housing Act 2004, approve the designation of 13 wards (Bowes, Edmonton Green, Enfield Highway, Enfield Lock, Haselbury, Jubilee, Lower Edmonton, Palmers Green, Ponders End, Southbury, Southgate Green, Turkey Street and Upper Edmonton) 'Designation One' as a selective licensing area as delineated and edged red on the map at *Appendix 4*. This will come into being at the earliest opportunity following the statutory process and not before 3 months after the requisite confirmation from the Secretary of State for MHCLG – estimated 1 September 2020.
- 2.8 If Cabinet is satisfied upon consideration of the above matters and in exercise of its powers under section 80 of the Housing Act 2004, to approve the designation of Chase ward 'Designation Two' as a selective licensing area as delineated and edged blue on the map at *Appendix 4*. This will come into being at the earliest opportunity following the statutory process and not before 3 months after the requisite confirmation from the Secretary of State for MHCLG – estimated 1 September 2020.
- 2.9 If Cabinet is satisfied upon consideration of the above matters and in exercise of its powers under section 56 of the Housing Act 2004, to approve the borough wide designation as an additional HMO licensing area as delineated and edged red on the map at *Appendix 5*. For administrative practicality, this designation will come into being at the same time as selective licensing, estimated to be 1 September 2020.
- 2.10 Agree the proposed scheme objectives as detailed in *Appendix 6*.
- 2.11 Agree to the proposed fee structure for licence applications made under the selective and additional licensing schemes at *Appendix 7*.
- 2.12 Agree the proposed licence conditions that would accompany any granted additional HMO licence at *Appendix 8*.
- 2.13 Agree the proposed licence conditions that would accompany any granted selective licence at *Appendix 9*.
- 2.14 Note the Equalities Impact Assessment in *Appendix 10*.

- 2.15 Subject to Cabinet agreeing 2.7- 2.9, that Cabinet delegate to the Cabinet Member for Licensing & Regulatory Services in consultation with the Director of Environment & Operational Services responsibility for agreeing the final document requesting confirmation of the selective licensing designation from the Ministry of Housing, Communities and Local Government (MHCLG) in consultation with the Director of Governance and Law.
- 2.16 Delegate to the Cabinet Member for Licensing & Regulatory Services in consultation with the Director of Environment & Operational Services authority to ensure compliance in all respects with all relevant procedures and formalities applicable to authorisation schemes.
- 2.17 Delegate to the Cabinet Member for Licensing & Regulatory Services in consultation with the Director of Environment & Operational Services authority to keep each scheme under review for the duration thereof and to agree changes to the proposed implementation of the schemes where necessary, including authority to keep the licence fees and licence conditions under review and to amend if necessary (either in an individual case or generally), and to ensure that all statutory notifications are carried out in the prescribed manner for the designations and to take all necessary steps to provide for the operational delivery of any licensing schemes agreed by Cabinet including but not limited to the procurement of services subject to the Council's Contract Procedure Rules.



### 3. BACKGROUND

#### Selective Licensing Scheme

- 3.1 Under Part 3 of the Housing Act 2004, local authorities may designate an area as subject to selective licensing, requiring those managing or having control of privately rented accommodation (that does not have to be licensed under other licensing schemes) to obtain a licence. In order to designate an area as a selective licensing area, the local authority must be satisfied that certain prescribed legislative criteria are met which are explained below.
- 3.2 The designated area must be experiencing one or more of the following:
- **Poor property conditions;**
  - **High levels of deprivation;**
  - **A significant and persistent problem caused by anti-social behaviour**
  - High levels of migration;
  - High levels of crime;
  - Low housing demand (or likely low housing demand in the future, in this case Enfield has a high housing demand and hence is not considering this criteria);
- 3.3 The criteria highlighted in bold above are those that have been considered, evidenced and proposed for selective licensing designations.
- 3.4 With regards to a selective licensing designation for poor property conditions, the local housing authority must consider that it is appropriate that a significant number of private rented properties need to be inspected to determine if category 1 or 2 hazards exist, and that the authority intends to undertake inspections with a view to taking the necessary enforcement action.
- 3.5 With regards to a selective licensing designation for high levels of deprivation, the local housing authority must consider that the area is suffering from a high level of deprivation which affects a significant number of the occupiers of private rented properties.
- 3.6 With regards to a selective licensing designation for anti-social behaviour, the local housing authority must consider that the area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all of the landlords have failed to take action to combat the problem that would be appropriate to take.
- 3.7 The local housing authority must also consider that making a designation under these criteria 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, lead to a reduction in

deprivation and anti-social behaviour in the area, and lead to improvement of housing conditions in the area.

- 3.8 In addition, the area must have a high proportion of properties in the private rented sector (in comparison with the national level of private rented sector in the English House Condition Survey, currently 19%), that are let under either assured tenancies or licences.
- 3.9 If a proposed selective licensing designation covers more than 20% of an authority's geographical area or would affect more than 20% of the privately rented homes in the area, the local authority must apply to the Secretary of State for MHCLG for confirmation of the scheme.
- 3.10 A local authority may determine to make a designation covering all or part(s) of its area that it considers meet the designation criteria, or it may make two or more designations.

#### Additional Licensing Schemes

- 3.11 Part 2 of the Housing Act 2004 allows local authorities to designate an area as subject to an additional licensing Scheme, requiring those managing or having control of HMOs (that are not subject to mandatory licensing but fall within a description set by the local authority) to obtain a licence.
- 3.12 In order to designate an additional licensing Scheme, the local authority must consider that a significant proportion of the HMOs<sup>1</sup> in the area are being managed sufficiently ineffectively, so as to give rise to one or more particular problems either for those occupying the HMOs or for the public. An additional licensing scheme such as the one proposed does not require Secretary of State approval.

#### Other considerations by the Local Authority when designating additional and/or selective licensing schemes

- 3.13 The local authority must also ensure that designations of an additional or selective licensing area is consistent with the authority's overall housing strategy, and also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector.
- 3.14 When considering whether to implement a selective or additional licensing scheme, the authority must also consider whether there are any other courses of action available to the Council that might provide an effective method of achieving the objectives that the licensing schemes seek to achieve, and whether the licensing schemes will significantly assist the Council achieve the objectives (whether or not they take any other course of action as well).

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<sup>1</sup> Other than buildings which are not HMOs for purposes of the Housing Act 2004 as per Schedule 14

- 3.15 *Appendix 3 (sections 4 & 17)* and Section 4 below outlines the measures that the Council have taken to seek to improve conditions in the private rented sector, and consideration of other alternative courses of action. Alternative courses of action suggested during the public consultation have also been considered in *Appendix 2*. However, for the reasons explained in section 4 below and *Appendix 2 and 3*, these measures alone have not, or will not, bring about necessary improvements on a scale of such large numbers of properties that is needed in the borough's private rented sector.
- 3.16 It is considered that the introduction of an additional and a selective licensing scheme, alongside continued use of enforcement powers under Part 1 of the Housing Act and other measures, will assist the Council to achieve the objectives of improving housing conditions and reducing ASB and deprivation (selective licensing) and improve the management of HMOs (additional licensing). The introduction of licence conditions as part of these schemes will, in particular, ensure that landlords are fully aware of their obligations and will require landlords to ensure that properties are properly managed. This is currently not a measure that is available to the Council across all private rented properties.

#### Statutory Public Consultation

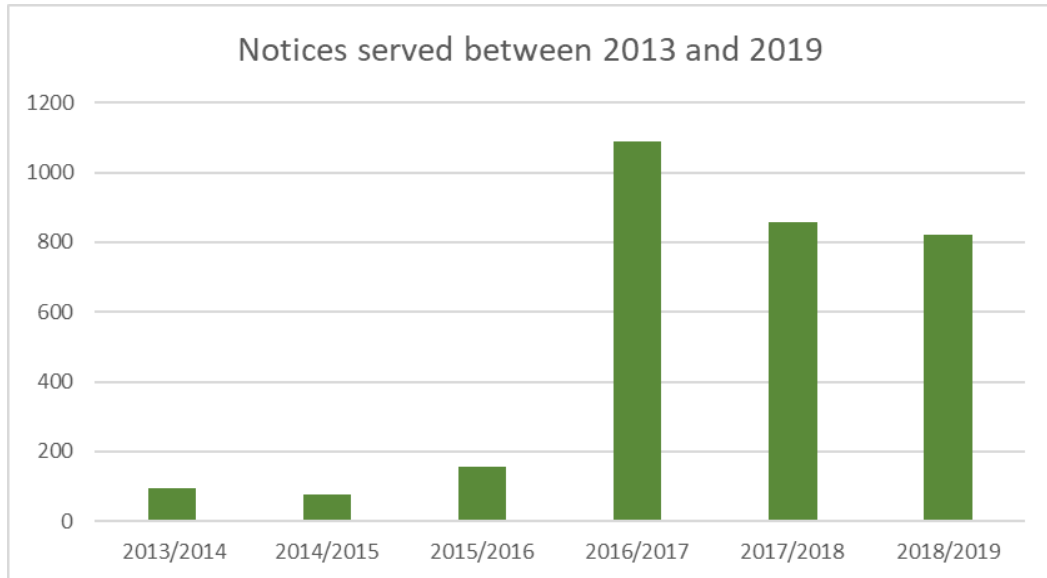
- 3.17 For both proposed additional and selective licensing schemes, the local authority must take reasonable steps to consult persons who are likely to be affected by the designations, and consider any representations made in accordance with the consultation and not withdrawn. The consultation must take place for not less than 10 weeks.
- 3.18 On 20 June 2019, approval was given by the Cabinet Member for Licensing & Regulatory Services to undertake a public consultation on two proposed private rented property licensing schemes. This decision was upheld and supported by the Overview and Scrutiny Committee on 15 July 2019. The proposed schemes are informed by the robust evidence base (*Appendix 3*) on the private rented sector in the borough, and the government legislation and guidance relating to the designation of additional and selective licensing schemes.
- 3.19 An extensive public consultation, widely publicised using various channels of communication, was undertaken for just over 13 weeks between 28 August and 29 November 2019.
- 3.20 The proposals consulted on were:
- A selective licensing scheme comprising of two designations covering 14 of the borough's wards, which would apply to eligible dwellings occupied by a single household; and

- An additional HMO licensing scheme comprising one designation for all wards in the borough occupied by 3 or 4 persons in more than one household who share one or more amenities
- 3.21 The first designation for selective licensing includes 13 wards – Bowes, Edmonton Green, Enfield Highway, Enfield Lock, Haselbury, Jubilee, Lower Edmonton, Palmers Green, Ponders End, Southbury, Southgate Green, Turkey Street and Upper Edmonton. The second designation is one ward – Chase (see map *Appendix 4*). There are an estimated 24,534 rented properties in the two designations which would be subject to selective licensing.
- 3.22 The other proposal is a borough wide additional licensing designation which would apply to eligible Houses in Multiple Occupation (HMOs) occupied by 3-4 persons in more than one household which share one of more standard amenities (see map *Appendix 5*). There are around 9,661 HMOs in Enfield that would fall under either mandatory or additional licensing. 915 of these are expected to be Mandatory HMOs with the remaining 8,746 being covered by the additional licensing scheme.
- 3.23 This report details the feedback received from the public consultation and the Council’s consideration of, and response to, that feedback (*Appendix 1, 1A and 2*).
- 3.24 Having taken into account the legislative requirements, the robust evidence and the support and feedback from the public consultation, it is recommended that Cabinet approve the proposed selective licensing designations and the additional licensing designation. It is anticipated that the schemes would commence on 1 September 2020.
- 3.25 If the Cabinet agrees to the proposed designation of a selective licensing scheme, this will be subject to confirmation from the Secretary of State for the MHCLG before it can be introduced. We are not required to seek confirmation for the additional HMO licensing designation from the Secretary of State for MHCLG.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could decide to do nothing. This is not a viable option due to the significant scale of poor housing conditions and poor management of private rented property in the borough and the increasing growth of the sector. This is clearly seen in the evidence (*Appendix 3*) and is the day to day experience of council officers working in the sector. The ageing housing stock in the borough, coupled with the increased demand for private rented accommodation has enabled landlords to rent out sub-standard properties to families who have few options. Such a decision would leave only mandatory HMO licensing as the means of regulation of housing management of certain properties that are HMOs. The Council could continue to rely on Part 1 Housing Act 2004 enforcement powers alone. The Council has

undertaken significantly increased levels of enforcement to improve private rented properties in the last 3 years but despite this, large scale improvements are still needed in the sector.



**Figure 1 - Housing Enforcement Notices served between 2013 and 2019**

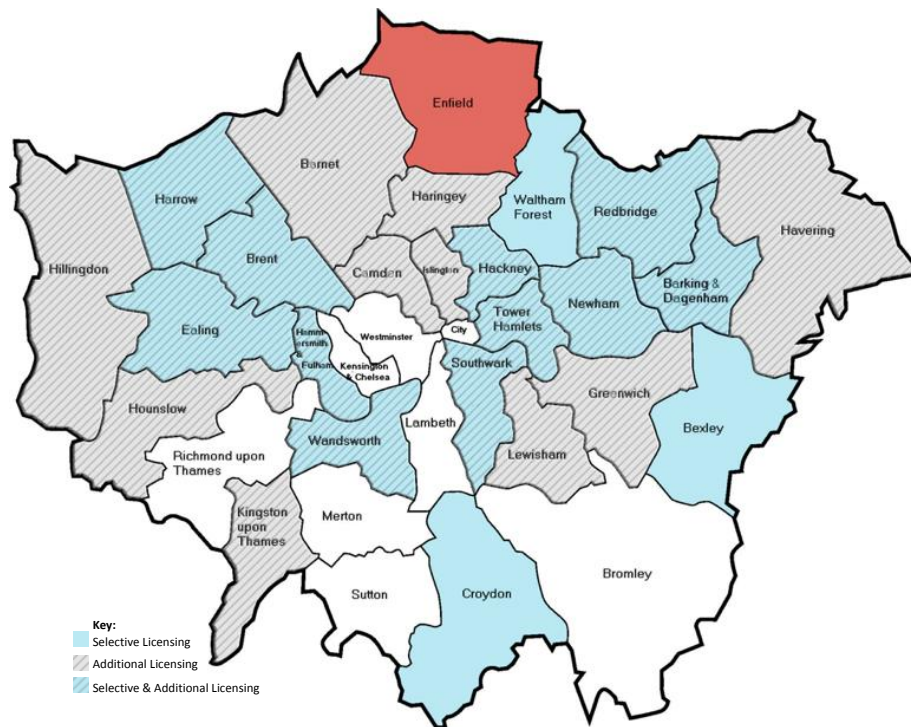
Formal action is slow with appeal provisions against most types of notices served, which can significantly delay the time period for compliance. Work in default (where a local authority carries out works to a property when the landlord fails to and the landlord is then billed for it) can be effective but is expensive and time consuming for the Council, with the risk that costs are not recovered. In addition, the Council's powers under Part 1 do not enable it to regulate the management of property as licensing schemes do. The Part 1 provisions are currently available to the Council but have not provided the necessary large-scale improvements in the sector. The Council can only mostly respond reactively to complaints or reports of disrepair, overcrowding etc. which does not address the volume or scale of the issues in the borough.

- 4.2 The Council could rely on voluntary accreditation schemes or landlord membership organisations, such as the National Landlord Association or the Residential Landlords Association. These can help to support and improve a professional approach by landlords, but the uptake of the various schemes is low and does not give the Council any additional powers to take enforcement action against non-compliance. A local landlords' forum was previously set up by the Council but was attended with only 30 landlords and agents. Attendance dwindled to ten and was eventually disbanded in 2014. The national membership schemes are currently available but have not had a significant uptake or provided the necessary improvements in the borough.

- 4.3 The Council could decide to only designate an additional licensing scheme and not a selective licensing scheme. The alternatives to a selective licensing scheme were investigated and put forward as part of the consultation. However, the alternative powers would not deliver the necessary large scale improvements and outcomes to meet the objectives set out in *Appendix 6* that selective licensing can achieve.
- 4.4 The Council could decide to only put forward the 14-ward selective licensing scheme and not pursue the borough wide additional licensing scheme. This would have the effect of leaving the majority of HMOs unlicensed and less regulated. These properties are some of the most poorly managed and hazardous and make the most demands on Council services.

## **5. REASONS FOR RECOMMENDATIONS**

- 5.1 The introduction of Additional and Selective Licensing will:
- Improve housing conditions
  - Seek to reduce deprivation and inequalities, in conjunction with other key council strategies (e.g. homelessness prevention, housing strategy, corporate plan, poverty commission actions)
  - Help to tackle anti-social behaviour linked with the private rented sector as part of a broader tool kit
  - Contribute to an improvement in the health outcomes of residents in the most deprived areas by improving property conditions
- 5.2 Enfield is one of the few boroughs in London that doesn't have either Selective or Additional Licensing Schemes. Anecdotally and observationally, officers from the borough and neighbouring boroughs support the theory that this has the effect of displacing the problem of rogue landlords from neighbouring boroughs with strong licensing scheme inspection regimes to Enfield, making the situation in the borough worse.

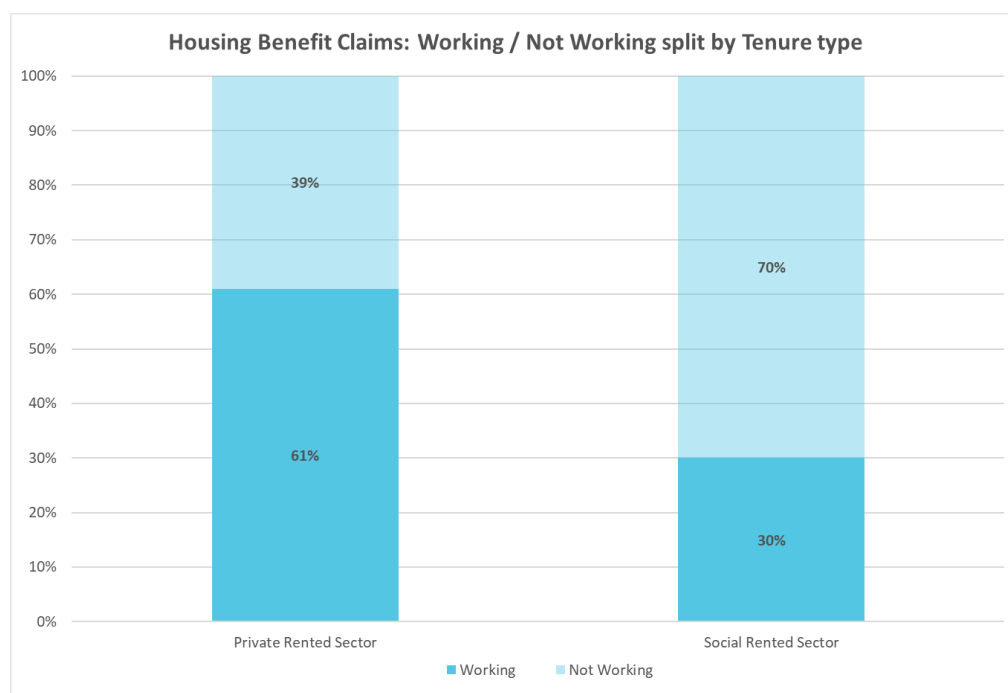


**Figure 2 - Selective and Additional Licensing in London Boroughs**

- 5.3 Two nearby boroughs, Newham and Waltham Forest, have had large scale Additional and/or Selective Licensing for a number of years, since 2013 and 2015 respectively. Newham’s experience is that *“Licensing has proved invaluable in driving housing standards up in the growing private rented sector and helps both tenants and landlords manage rented properties to a higher standard”*. In addition, 89% of respondents who responded to a face to face survey agreed that continuing the scheme would improve property condition and management. (Newham Council Cabinet report, Licensing of privately rented properties, 15 June 2017).
- 5.4 As a result of implementing licensing, Waltham Forest has improved over 5,685 properties and has sent over 21,000 warning letters to landlords, agents and property managers. Having licensing has enabled it to prosecute or issue a civil penalty to nearly 200 landlords and has taken over the full management of over 20 properties. Waltham Forest will be implementing a second 5-year borough-wide Additional Licensing Scheme, and are currently seeking Secretary of State’s approval for a new Selective Licensing Scheme.
- 5.5 The eviction rate in the private rented sector in the borough of Enfield is the highest in London. There were 32 evictions per 1,000 renting households in 2016/17 compared to 22 per thousand in Newham and 20 per thousand in Waltham Forest. Whilst not completely eradicating the issue, a designation of selective licensing would provide greater protection to tenants from one of the biggest causes of eviction. Landlords cannot use Section 21 of the Housing Act 1988, a so-called “no-fault eviction notice”, to evict tenants from a property that is subject to licensing, if the property is not licensed. It is essential that any new

licensing scheme is aligned with the Council's strategy on preventing homelessness. This is discussed further in paragraphs 5.47 – 5.54.

- 5.6 The Council have increasingly used existing enforcement powers to deal with property conditions and management, but these are generally reactive. At the moment the council relies heavily on receipt of complaints to identify which properties are privately rented and are in poor condition, overcrowded and are being badly managed. The continuing increase and high number of service requests and incidences of ASB in the private rented sector indicate that current enforcement measures are not sufficient on their own. Additional and Selective licensing schemes will provide the necessary capacity to identify which properties to target for inspection and to bring into compliance, and help us to raise standards and improve conditions for the private rented sector. Licensing provides clear guidance for landlords on the expected standards for property conditions and management.
- 5.7 Enfield has the highest number of private renters on Housing Benefit in London, and the second highest in the UK. Of Housing Benefit claimants in work – twice as many live in the private renter sector. This demonstrates that private renting is expensive and families in work also need assistance with housing benefit to help pay their rent.



**Figure 3 - Housing Benefits Claims: Working / Not Working split by Tenure.** Source: DWP reporting tool – Stat-Xplore 2019, LB of Enfield – Information & Research Team

- 5.8 Housing Benefit assistance is being rolled into universal credit payments on a phased basis. The borough also has the second highest level of Discretionary Housing Payment for Universal Credit in



the country, after Birmingham. The roll out of Universal Credit started in Enfield in 2017 and is ongoing. Discretionary Housing Payments provide further financial assistance, over and above any welfare benefits, when help with housing costs is required.

- 5.9 At the moment, the Council pays rent in the private rented sector via Housing Benefit (and Universal Credit is paid via the Department of Work and Pensions to residents in the borough). Despite contributing around £202 million this year to rent through Housing Benefit in the private renter sector, the Council has very limited means to control the standards in the sector. Therefore, if the Council/DWP is making this level of payments to support tenants in the private rented sector there should be some form of regulation to address the poor housing conditions to ensure the standards of accommodation are safe and of a satisfactory standard.

**Evidence Base – Selective Licensing Scheme (extracts from Appendix 3)**

The level and distribution of Private Rented Sector accommodation in the borough

- 5.10 The private rented sector in the borough has been steadily growing and has trebled in the last twenty years from 12% in 2001 to 24% in 2011 and now reaching an estimated 34%. The number of private rented properties in the borough is estimated to be 43,526. Of these, an estimated 24,534 are in the proposed designated selective licensing areas (14 wards).

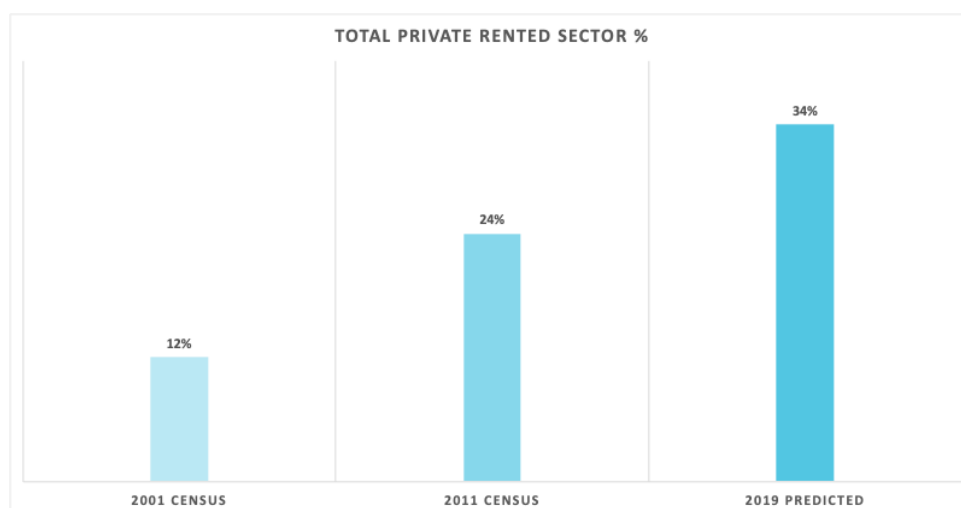


Figure 4 - LBE Total Private Rented Sector %. Source: Metastreet predicted model 2019

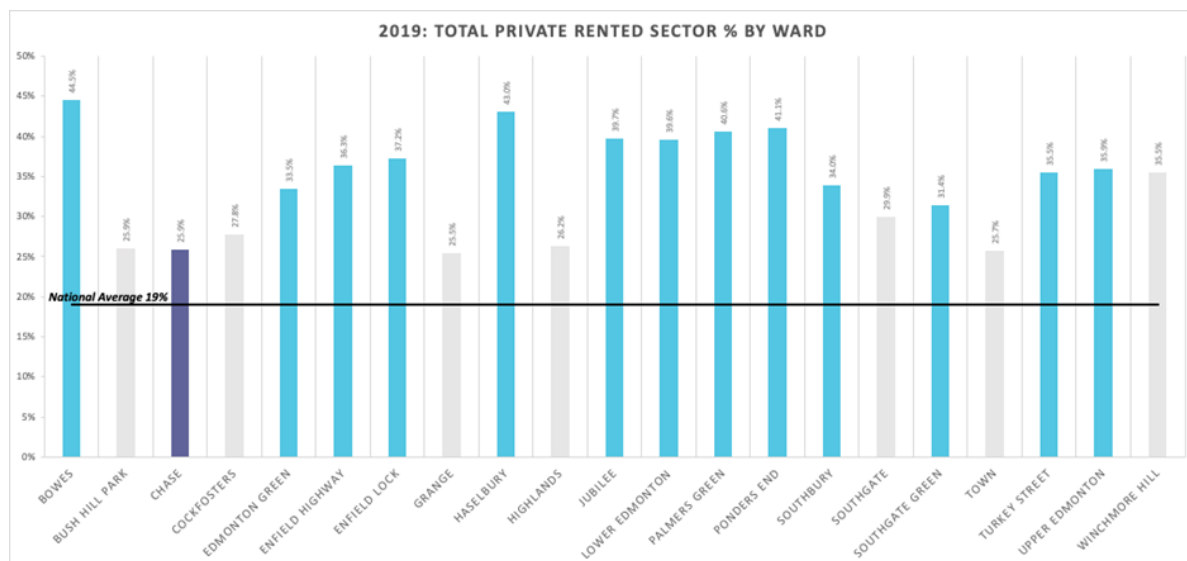
- 5.11 This aligns with the trend across London, which has seen a dramatic increase in the private rented sector over the last fifteen years. Nearby boroughs now report a private rented sector level of between 22% and 46%.

### Private rented sector (PRS) % Comparison

	Census 2011	Latest reported PRS level
Enfield	24%	34%
Brent	32%	41.5%
Hackney	30%	30%
Haringey	33%	31%
Harrow	23%	22%
Islington	28%	26%
Newham	35%	46%
Redbridge	24%	24%
Waltham Forest	27%	37%

**Table 1 - Private rented sector (PRS) % Comparison. Source: Census 2011- Tenure for Local Authorities, Reported PRS on individual borough documentation**

5.12 Any geographical area included in a Selective Licensing Scheme must have over the current national average of 19% of private rented sector (English Housing Survey 2018). All wards in Enfield have well over 19% of private rented sector. The graph below shows the ward by ward breakdown of private rented sector based on recent predicted modelled data.



**Figure 5 - Total Private Rented Sector % by Ward**

5.13 The legislation requires that for a Selective Licensing Scheme to be applicable, the area must also have a high proportion of the tenancies in the private rented sector that are either assured tenancies or licences (to occupy). Based on our professional experience through day to day working and further research carried out, we are satisfied that a high proportion of private rented properties in the borough are rented out as assured tenancies or licences. Since the Housing Act 1988, assured shorthold tenancies are the most common type of tenancy agreement in the private rented sector. Also, the experience of the Council's Housing Enforcement Officers is that the majority of

tenants they deal with have (or should have) an assured shorthold tenancy agreement.

- 5.14 Whilst all wards meet the Government criteria of being over the national average of 19% private rented sector, only 14 wards are being put forward to be included in the designation areas because they must also meet at least one of the other criteria set in the legislation. The criteria are listed in paragraph 3.2.
- 5.15 The Council is looking at poor property conditions as the primary criteria followed by high levels of deprivation and then ASB. Private rented properties in the first proposed designation area suffer from poor property conditions; high levels of deprivation and have significant and persistent anti-social behaviour. They also place a significant demand on council resources. Chase ward has been placed in a separate second proposed designation (Designation Two), as it has a significant number of private rented properties with poor property conditions along with being 11<sup>th</sup> most deprived ward in Enfield, but with lower levels of ASB compared to Designation One.

*Appendix 4* shows the proposed designations for selective licensing.

#### Poor Property Conditions

- 5.16 According to the Government guidance<sup>2</sup>, *“There may... be circumstances in which a significant number of properties in the private rented sector are in poor condition and are adversely affecting the character of the area and/ or the health and safety of their occupants. In that case, as part of wider strategy to tackle housing conditions, the local housing authority may consider it appropriate to make a Selective Licensing Scheme so that it can prioritise enforcement action under Part 1 of the Act, whilst ensuring through licence conditions under Part 3 that the properties are properly managed to prevent further deterioration.”*
- 5.17 Nationally, the condition of properties in the private rented sector continues to be worse than other housing sectors. A quarter (25%) of privately rented homes fell below the Decent Homes standard in 2017 and 15% of privately rented dwellings were estimated to have a least one serious Category 1 hazard, assessed using the Housing Health and Safety Rating System (HHSRS) under Part 1 of the Housing Act 2004 (English Housing Survey 2017/18).
- 5.18 An independent company specialising in data and property licensing were commissioned to use a stock-modelling approach based on

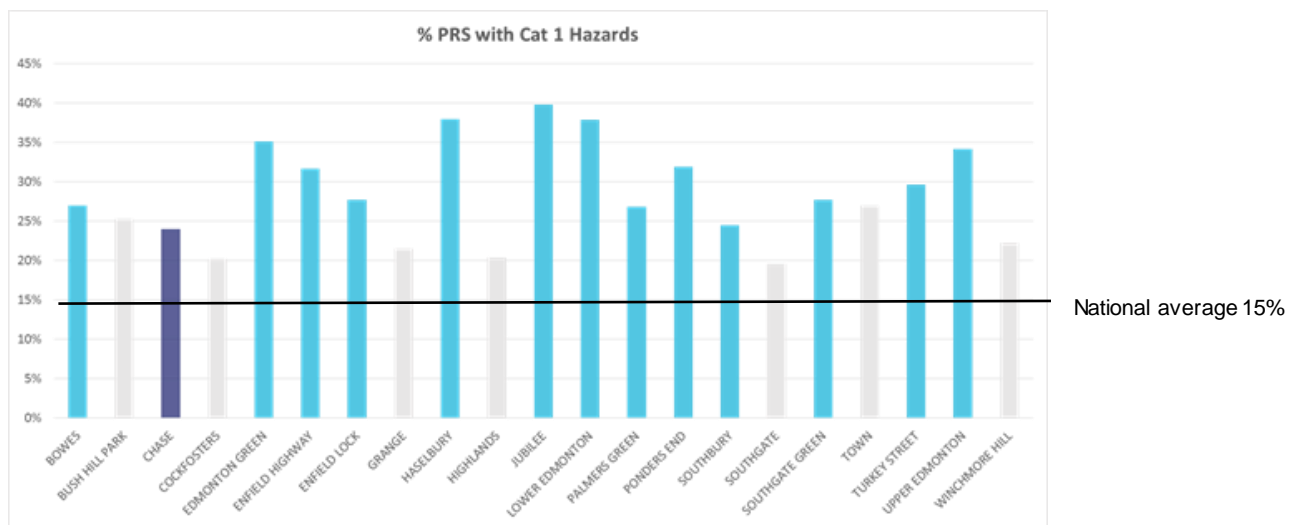
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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418551/150327\\_Guidance\\_on\\_selective\\_licensing\\_applications\\_FINAL\\_updated\\_isbn.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf)

metadata and machine learning using actual data to provide predictive insights about the prevalence and distribution of a range of housing factors in the borough's private rented sector. This specialist data company has used the same methodology working with other local authorities (such as Newham, Waltham Forest and Havering Councils) with their introduction of licensing schemes.

- 5.19 The modelling shows that there are a significant number of Category 1 hazards in the private rented sector in the borough. The vast majority (79%) of the Category 1 hazards are within the designated areas proposed (*Appendix 3 Table 5*).
- 5.20 A national survey<sup>3</sup> showed that 15% of privately rented dwellings had at least one serious Category 1 hazard, assessed using the Housing Health and Safety Rating system (HHSRS) under Part 1 of the 2004 Housing Act. The modelling undertaken shows that all the wards in the borough have over the national average of 15% of private rented properties with Category 1 hazards, and the borough average for Category 1 hazards is 28% which is significantly above the national average. Please see the graph below for a breakdown ward by ward.



**Figure 6 - % PRS with Cat 1 Hazards**

- 5.21 The modelled data is based on actual Council records, which shows that the wards within the designated areas have the highest number of private rented properties interventions per 1,000 private rented properties dwellings (*Appendix 3, Fig14*). This includes a broader range of property issues including Category 1 hazards, overcrowding, enforcement actions, housing notices, enviro-crime and disrepair. These wards place the highest demands on council services and resources.

<sup>3</sup> English Housing Survey Private Rented Sector 2016/17

- 5.22 A recent report published by the Government reviewing selective licensing schemes undertaken by Julie Rugg and David Rhodes<sup>4</sup>, agrees that, *“there are currently no regulations that define a minimum standard for property deemed suitable for letting, although the local authority can enforce compliance with the Housing Act 2004 if the property is inspected...Selective Licensing regimes open a dialogue between the local authority and local landlords, which local authorities can use to implement ‘soft’ enforcement through advice and support on property condition.”*
- 5.23 A Selective Licensing Scheme would enable a supportive dialogue with compliant landlords and to greater prioritise enforcement action under Part 1 of the Housing Act. The proposed licence conditions would set a minimum standard and encourage better management of properties to stop them getting even worse. A selective licensing scheme would also provide a targeted inspection programme and compliance capability backed by a strong legal framework.
- 5.24 The 2019 joint report from the Chartered Institute of Environmental Health and Chartered Institute of Housing<sup>5</sup> states the important role that Selective Licensing has in improving property conditions in the areas it is introduced, *“The introduction of a Selective Licensing Scheme in these areas clearly shows that property and management standards have been improved and the schemes were well targeted to focus on areas with very poor housing stock. The fact that such large numbers of properties needed works to be done also suggests that the schemes are largely fair to landlords – a majority of properties within licensable areas are benefitting from improvements and greater compliance.”*

#### Deprivation

- 5.25 In order to make a selective licensing designation based on a high level of deprivation, the Government recommends considering the following factors when compared to other similar neighbourhoods in the local authority area or within the region:
- the employment status of adults;
  - the average income of households;
  - the health of households;
  - the availability and ease of access to education, training and other services for households;
  - housing conditions;
  - the physical environment;
  - levels of crime.

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<sup>4</sup> <http://www.nationwidefoundation.org.uk/wp-content/uploads/2018/09/Private-Rented-Sector-report.pdf>

<sup>5</sup> <https://www.cieh.org/media/2552/a-licence-to-rent.pdf>

5.26 Enfield is the 6th most deprived borough in London and the 25th most deprived borough in England, based on low income levels (Indices of Multiple Deprivation, 2015). Breaking this down by ward, 14 of the wards with the highest levels of private rented sector rank in the 14 most deprived wards in the borough. These wards rank in the top 10% - 50% most deprived in London and nationally. Please see the map below.

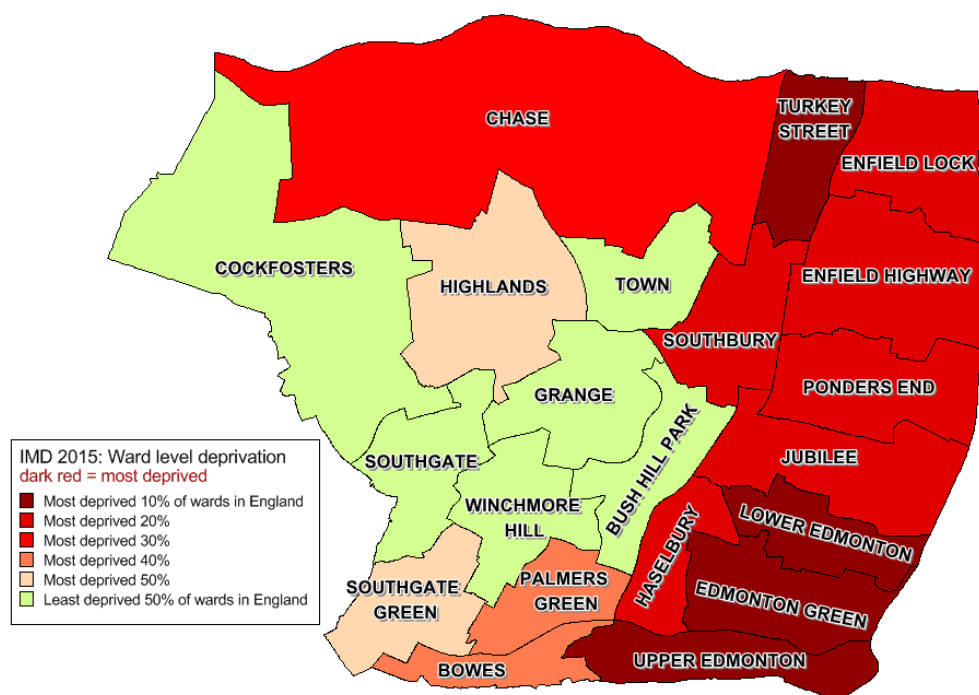


Figure 7 – Enfield Borough Ward level deprivation

5.27 Using the data from a number of sources<sup>6</sup>, it is clear that the wards with the highest levels of private rented sector are also the wards with high levels of deprivation, as indicated by a combination of the following:

- The higher levels of unemployment benefit claims as an indicator of the employment status of adults (*Appendix 3 Fig 10*)
- The high number of households living on low incomes below £15,000 per annum (*Appendix 3 Fig 11*)
- The number of children in low income families (*Appendix 3 Fig 12*)
- The number of households receiving the housing element of Universal Credit and Housing Benefit for the property they rent.

<sup>6</sup> The data sources are cited in Appendix 3 with each of Figures referred to in the bullet points

Enfield has the second highest level of Discretionary Housing Payment in the country (*Appendix 3, paragraph 3.12*)

- High levels of childhood obesity, as a proxy for poor health outcomes (*Appendix 3 Fig 13*).
- Properties with dirty front gardens as an example of a poor physical environment (*Appendix 3 Fig 18*)
- High levels of crime (*Appendix 3 Fig 15*)

5.28 The modelled data shows that there are significant numbers of private rented properties with poor housing conditions (including Category 1 Hazards) in the wards in the proposed designations. These not only contribute to poor health, with damp, mould and excessive cold being common issues, but landlords with properties in areas of high crime and ASB need to ensure that their properties are secure. In addition, under Selective Licensing, any ASB relating to a property must be monitored and addressed effectively by the licence holder.

5.29 The proposed Selective Licensing Scheme will help to address these problems by providing a targeted inspection programme and enforcement backed by a strong legal framework. This will ensure that landlords keep their properties in good condition and are not able to take advantage of vulnerable people and families who, due to their low income, have very limited choice in the rental market.

5.30 In addition, the licence conditions proposed for the scheme will stipulate a management regime for properties that will encourage landlords to inspect their properties and deal with disrepair and anti-social behaviour. Failure to manage a property effectively could also lead to prosecution or a civil penalty.

5.31 The table below summarises the deprivation factors in each ward demonstrating that the wards with the highest private rented sector also have the highest levels of deprivation.

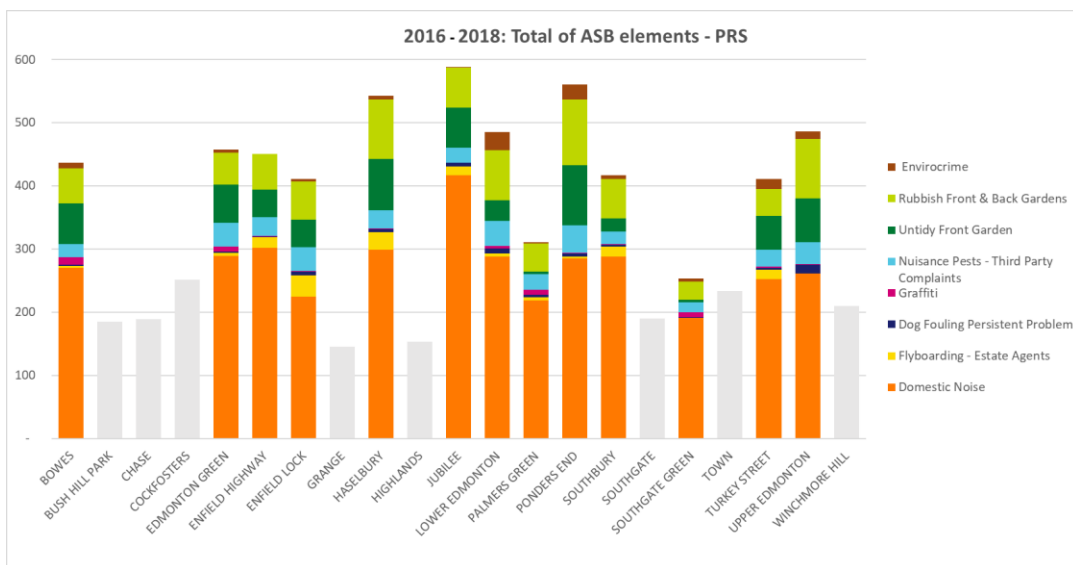
Ward	IMD ranking	High unemployment	Low income households	Poor health outcomes	Poor property conditions	High levels of crime	Number of factors
EDMONTON GREEN	1	✓	✓	✓	✓	✓	7
UPPER EDMONTON	2	✓	✓	✓	✓	✓	7
TURKEY STREET	3	✓	✓	✓	✓	✓	7
LOWER EDMONTON	4	✓	✓	✓	✓	✓	7
PONDERS END	5	✓	✓	✓	✓	✓	7
HASELBURY	6	✓	✓	✓	✓	✓	7
ENFIELD LOCK	7	✓	✓	✓	✓	✓	7
ENFIELD HIGHWAY	8	✓	✓	✓	✓	✓	7
JUBILEE	9	✓	✓	✓	✓	✓	7
SOUTHBURY	10	✓	✓	✓	✓	✓	7
CHASE	11	✓	✓	✓	✓	✓	7
BOWES	12			✓	✓	✓	4
PALMERS GREEN	13			✓	✓	✓	4
SOUTHGATE GREEN	14			✓	✓	✓	4
HIGHLANDS	15						0
COCKFOSTERS	16			✓			1
SOUTHGATE	17					✓	1
BUSH HILL PARK	18			✓			1
TOWN	19					✓	1
WINCHMORE HILL	20						0
GRANGE	21					✓	1

**Table 2 - Deprivation Factors in Enfield Borough's wards. Source: IMD 2015, LB of Enfield – Information & Research Team**

Anti-social Behaviour

5.32 According to the Government's guidance, if ASB is to be used as a criteria, the Council must show that the proposed designated area is suffering from significant and persistent anti-social behaviour. In addition, must show that 'private sector landlords in the designated area are not effectively managing their properties so as to combat incidences of anti-social behaviour caused by their tenants or people visiting their properties'.

5.33 The graph below shows the combined levels of ASB events linked to properties predicted to be privately rented. Noise problems are the biggest cause of ASB complaints, with rubbish in gardens and other envirocrimes causing the next level of complaints. The summary clearly shows that the situation with ASB is worse in the wards in the proposed Designation 1.



**Figure 8 - 2016-2018 Total of ASB elements**



5.34 The objectives of the proposed Selective Licensing Scheme will be strongly linked to reducing ASB connected to private rented homes, in conjunction with the Council’s policies:

- Corporate Plan 2018 - 2022 ‘Creating a lifetime of opportunities in Enfield’, which promises to tackle ‘all types of crime and anti-social behaviour’;
- The Homelessness Prevention strategy, which will look at tackling ASB in relation to tenancy sustainment;
- The new Housing strategy, which aims to prevent ASB by an improvement in interventions with private rented sector; and
- The Safer and Stronger Communities Board, Community Safety Plan 2017-2021 will deal with a range of ASB behaviours as one of the 5 priorities in the Community Safety Plan 2017-2021.

5.35 The proposed licensing conditions will also deal with a landlord’s responsibilities to address ASB in their property.

5.36 The table below summarises the evidence ward by ward, allowing a view of all of the criteria considered (private rented sector level, property conditions, deprivation and ASB).

Ward	Above 19% PRS	Poor property Conditions	Deprivation – based on IMD ranking	Significant Anti-Social Behaviour	Designation 1	Designation 2
BOWES	✓	✓	12	✓	Yes	
BUSH HILL PARK	✓	✓	18			
CHASE	✓	✓	11			Yes
COCKFOSTERS	✓	✓	16	✓		
EDMONTON GREEN	✓	✓	1	✓	Yes	
ENFIELD HIGHWAY	✓	✓	8	✓	Yes	
ENFIELD LOCK	✓	✓	7	✓	Yes	
GRANGE	✓	✓	21			
HASELBURY	✓	✓	6	✓	Yes	
HIGHLANDS	✓	✓	15			
JUBILEE	✓	✓	9	✓	Yes	
LOWER EDMONTON	✓	✓	4	✓	Yes	
PALMERS GREEN	✓	✓	13	✓	Yes	
PONDERS END	✓	✓	5	✓	Yes	
SOUTHBURY	✓	✓	10	✓	Yes	
SOUTHGATE	✓	✓	17			
SOUTHGATE GREEN	✓	✓	14	✓	Yes	
TOWN	✓	✓	19			
TURKEY STREET	✓	✓	3	✓	Yes	
UPPER EDMONTON	✓	✓	2	✓	Yes	
WINCHMORE HILL	✓	✓	20			

**Table 3 - Private rented sector level, property conditions, deprivation and ASB by ward.**  
**Source: IMD 2015, LB of Enfield – Information & Research Team**

- 5.37 The light blue rows represents Designation ONE comprising 13 wards. These wards exceed the national private rented sector threshold level and show the significant level of Category 1 hazards within the private rented sector. All 13 wards also show high levels of deprivation within all factors and show a significant high level of ASB, showing that landlords with properties within these wards (and hence the designation) are not managing their properties to combat ASB.
- 5.38 The dark blue row showing Chase ward exceeds the national private rented sector threshold level and has a significant issue with property conditions Category 1 hazards within the private rented sector properties along with being the 11<sup>th</sup> most deprived ward in the borough and hence being placed in Designation TWO.

#### Other Government criteria for Selective Licensing

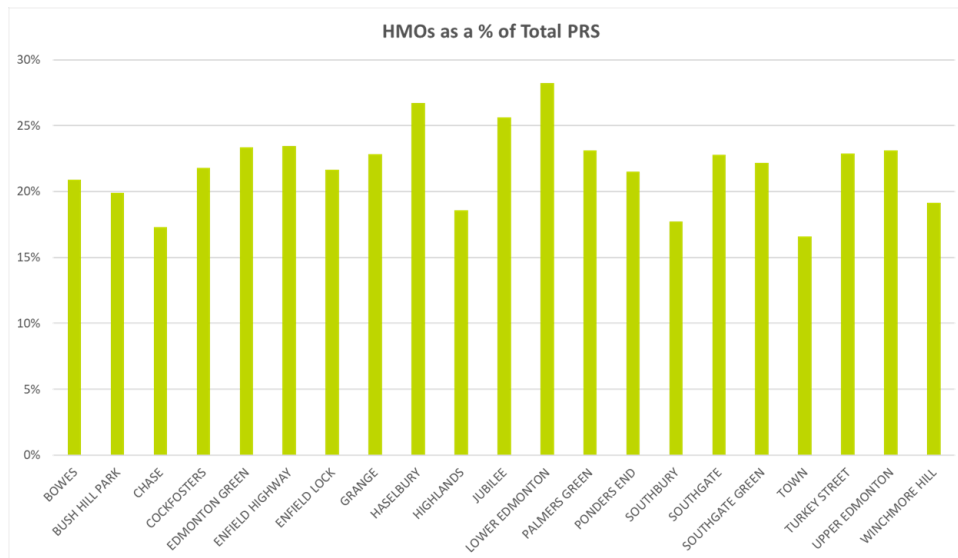
- 5.39 The other criteria (as listed in paragraph 3.2) that can be used to identify an area that could benefit from a Selective Licensing scheme either do not apply in the borough (i.e. low housing demand), or the pattern and distribution of the issues in the borough do not suggest a strong link to the private rented sector (i.e. high levels of crime, migration).

#### **Evidence Base – HMO Additional Licensing Scheme (extracts from Appendix 3)**

- 5.40 Additional Licensing Schemes relate to HMOs (House of Multiple Occupation) and applies to the entire house or flat which is let to less than 5 persons in two or more households with shared facilities (kitchen, bathroom and/or toilet). Larger HMOs that are occupied by five or more people forming two or more households which share facilities already fall within the scope of the national Mandatory HMO licensing, which Enfield Council already operates.

#### Level and distribution of Additional Scheme HMOs in the borough

- 5.41 The current estimation is that there are 9,661 HMOs across the borough of which we would expect to find that approximately 915 are actually Mandatory HMOs. The evidence shows that the majority of these HMOs would fall into additional licensing (estimated 8,746).



Evidence and experience of poorly managed sector

5.42 There is evidence that HMOs in the borough are being ineffectively managed and are causing issues for their inhabitants and neighbours in the community. There have been a high proportion of queries, complaints and reports to the Council from tenants living in HMOs and their neighbours, covering issues from noise and rubbish to overcrowding and fire hazards. These are confirmed by the follow up inspections and enforcement notices issued against the owners and managing agents of those properties. It is clear that this problem is getting worse and that the number of HMOs is also increasing. See the graph below for evidence of an increase to caseload queries between 2016 -2018.

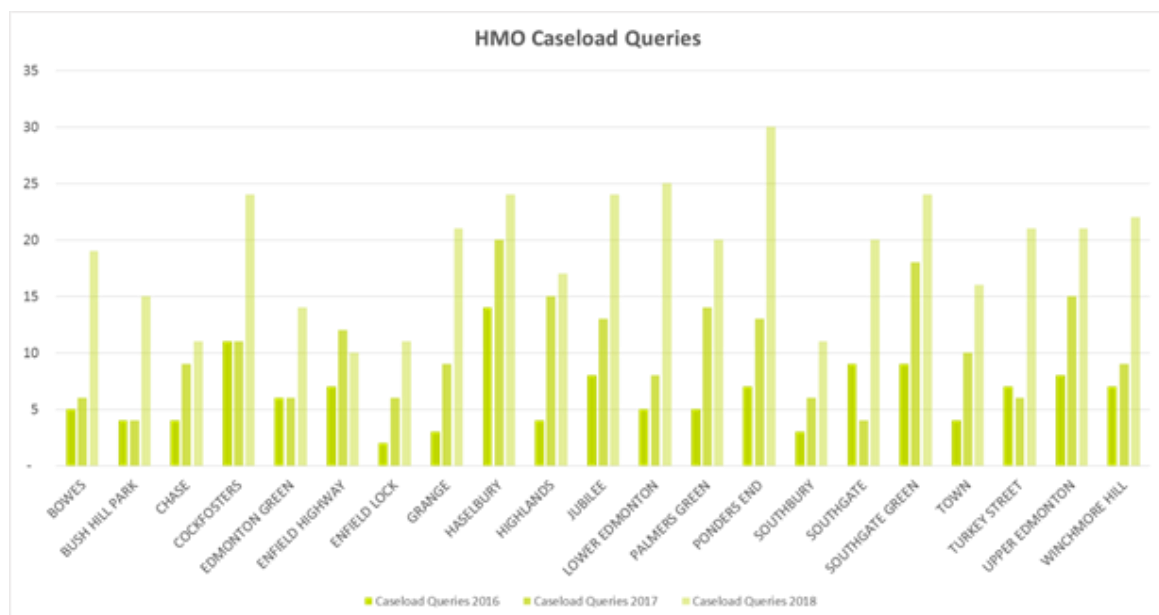
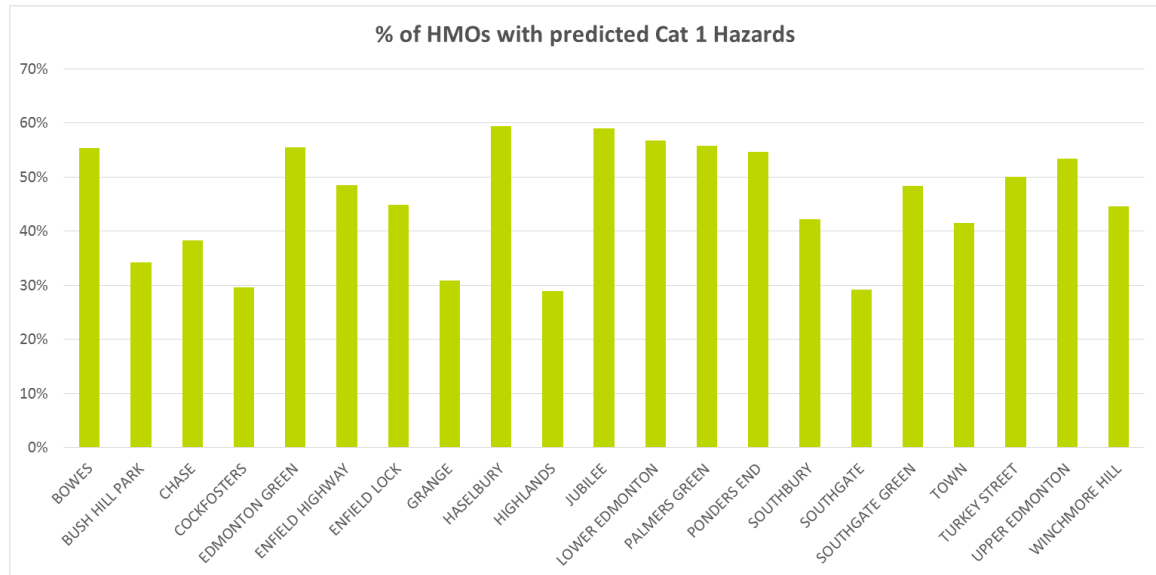


Figure 9 - HMO Caseload Queries 2016-2018

5.43 Using actual data, the predicted data modelling shows that there are poor property conditions (Category 1 hazards) associated with HMOs in the borough. HMOs are much more likely to have Category 1 hazards, way above the national average of 15% of privately rented properties. Please see the graph below.



**Figure 10 - % of HMOs with predicted Cat 1 Hazards**

5.44 There are also significant and persistent problems caused by anti-social behaviour specifically related to HMO properties and evidence that HMO properties place high demands on Council services (private rented sector regulatory interventions).

Ward	No. HMOs	Cat 1 hazards	Total ASB, Nuisances & Envirocrime	Total PRS Regulatory Interventions
BOWES	555	307	128	860
BUSH HILL PARK	298	102	44	155
CHASE	261	100	45	162
COCKFOSTERS	347	103	60	122
EDMONTON GREEN	558	310	167	947
ENFIELD HIGHWAY	520	252	121	758
ENFIELD LOCK	548	246	103	693
GRANGE	337	104	25	97
HASELBURY	688	409	182	1,259
HIGHLANDS	290	84	32	119
JUBILEE	555	327	285	1,054
LOWER EDMONTON	709	402	225	1,274
PALMERS GREEN	596	332	99	821
PONDERS END	533	291	188	980
SOUTHBURY	367	155	139	355
SOUTHGATE	435	127	45	209
SOUTHGATE GREEN	397	192	74	424
TOWN	277	115	47	176
TURKEY STREET	452	226	146	661
UPPER EDMONTON	552	295	179	697
WINCHMORE HILL	386	172	50	250
<b>BOROUGH TOTAL</b>	<b>9,661</b>	<b>4,651</b>	<b>2,384</b>	<b>12,073</b>
<b>BOROUGH AVERAGE</b>	<b>460</b>	<b>221</b>	<b>114</b>	<b>575</b>

**Table 4 - HMO, Cat 1 Hazards, Total ASB, Nuisances & Envirocrime and PRS Regulatory Interventions by ward. Source: Metastreet predicted model 2019**

- 5.45 *Table 4* shows that there are high levels of property-related ASB in HMOs across the borough, supporting the case for a borough-wide Additional Licensing Scheme.
- 5.46 Another example of poor property management is the extremely low level of tenancy deposits registered with the national schemes. The national average for all private rented sector is 73%, and the Enfield Borough average for HMOs is only 12%. This shows an indicative failure of landlords to use these government protected schemes and is an offence under the Consumer Rights Act 2015.

Ward	Total Registered Tenancy Deposits	% HMOs with Tenancy Deposits
BOWES	93	17%
BUSH HILL PARK	37	12%
CHASE	26	10%
COCKFOSTERS	54	16%
EDMONTON GREEN	65	12%
ENFIELD HIGHWAY	36	7%
ENFIELD LOCK	55	10%
GRANGE	31	9%
HASELBURY	64	9%
HIGHLANDS	29	10%
JUBILEE	56	10%
LOWER EDMONTON	84	12%
PALMERS GREEN	66	11%
PONDERS END	78	15%
SOUTHBURY	49	13%
SOUTHGATE	92	21%
SOUTHGATE GREEN	78	20%
TOWN	51	18%
TURKEY STREET	30	7%
UPPER EDMONTON	51	9%
WINCHMORE HILL	32	8%
<b>BOROUGH TOTAL</b>	<b>1,157</b>	<b>12%</b>
<b>BOROUGH AVERAGE</b>	<b>55</b>	<b>12%</b>

**Table 5 - Total registered tenancy deposits and % HMOs with tenancy deposits by ward. Source: Metastreet predicted model 2019**

Alignment with other key council strategies

- 5.47 Selective Licensing and Additional Licensing Schemes are key to supporting the Council’s strategies for Housing and Homelessness.
- 5.48 The Council is currently developing a new Housing and Growth Strategy, which sets out the vision for delivering housing that creates a step-change to tackle the scale of the housing crisis. The Council wants to make sure that everyone can benefit from the opportunities that growth can bring, and everyone feels connected to their community, even during times of change. Enfield’s emerging new Housing Strategy is made up of five ambitions. The third proposed ambition is to achieve “quality and variety in private sector homes”, with a range of priorities being considered to improve quality of the private rented sector.
- 5.49 As well as new developments, the new Housing and Growth Strategy will increase supply of good quality, private sector housing by bringing as many empty homes as possible back into use. Empty homes are a blight on neighbourhoods and can attract crime and anti-social behaviour. Bringing empty homes back into use will improve the quality

of homes and neighbourhoods and contribute to increasing housing supply to meet the needs of local people. This also plays a particularly important role for families who are overcrowded, as many homes have three or more bedrooms.

5.50 This strand focuses on the need to improve the private rented sector in the context of rising homelessness, high eviction rates and heavy reliance on the private rented sector. Licensing will significantly contribute to the Council's Corporate Plan aim to 'deliver initiatives to improve standards in the private rented sector and tackle rogue landlords' and the overarching aim to deliver 'good homes in well-connected neighbourhoods' and 'increase the supply of affordable, quality housing options'.

5.51 Alongside the new Housing Strategy, the recently approved Preventing Homelessness and Rough Sleeping Strategy found that almost a quarter of residents in the private rented sector have higher outgoings than income, mainly driven by housing costs. These residents are at high risk of becoming homeless. The level of evictions in the borough is the highest in London. Whilst homelessness is rising significantly across the country, in Enfield this is particularly stark with 3,466 households currently in Temporary Accommodation, the second highest number nationally. The additional and selective licensing schemes will complement the new operating model and action plan in the Preventing Homelessness and Rough Sleeping Strategy which aims to:

- Develop a service offer for residents that provides tenancy sustainment support and intervention for all types of rented accommodation (including private rented)
- Strengthen tenancy sustainment services by providing residents with support and training before they start their tenancy, so that they are informed about their rights and responsibilities, and provide on-going support to residents who need it, to help them to sustain their tenancies and stay in their homes
- The Council's Financial Assessment Service working with Enfield Citizens Advice and the Department of Work and Pensions to support people early with timely access to benefits, effectively dealing with debt and rent arrears, and access to employment and training
- Intervene directly in the private rented market to improve conditions by increasing the supply of good quality private rented sector accommodation through Housing Gateway, an Enfield Council owned company, which buys and manages homes for homeless residents. Housing Gateway will be an exemplar landlord, providing stable and longer-term tenancies for families and shorter tenancies where appropriate to residents' needs

- Will explore options to set up an ethical lettings agency to provide a good offer for residents who are privately renting.
- Will undertake further research to better understand the demand for affordable housing from single people on low incomes and further develop solutions in the private rented sector which meet their needs.
- Will broaden and strengthen the support that we provide to landlords, helping them to raise standards, sustain tenancies and offer longer-term tenancies. We will move away from paying landlords incentives to let their properties and move towards a model where we fund the deposit and months' rent in advance required by private landlords, for people who are otherwise unable to access private rented accommodation due to these costs

5.52 The Council sees its relationship with private rented landlords as key to achieving this. Loss of private rented accommodation is the main reason for households accepted as homeless, accounting for nearly half of all cases. Reducing evictions from the private rented sector is a key priority. This involves supporting, empowering, and educating tenants regarding their rights and responsibilities, as well as working with landlords. Enfield Council's priorities include both improving standards of management through effective support, information, advice and guidance for landlords; whilst also taking a strong approach to tackling poor conditions and stopping rogue landlords and managing/ letting agents.

5.53 In June 2019, Enfield Council created an independent commission; Enfield Poverty and Inequality Commission (EPIC), to understand the causes of poverty and inequality in the borough and to find local solutions. Understanding and acting on poverty is a priority for the Council, as many people are managing the effects of poverty in their daily lives. Poverty and housing are closely linked, and the results of this commission will influence and inform the Council's delivery of this strategy.

5.54 As mentioned in paragraphs 5.47–5.54 above, the additional and selective licensing schemes will operate alongside other Council's strategies to reduce ASB connected to private rented homes such as:

- Corporate Plan 2018 - 2022 'Creating a lifetime of opportunities in Enfield', which promises to tackle 'all types of crime and anti-social behaviour';
- The Homelessness Prevention strategy, which will look at tackling ASB in relation to tenancy sustainment;
- The new Housing strategy, which aims to prevent ASB by an improvement in interventions with private rented sector; and



- The Safer and Stronger Communities Board, Community Safety Plan 2017-2021 will deal with a range of ASB behaviours as one of the 5 priorities in the Community Safety Plan 2017-2021.

### Licence Fees

- 5.55 Article 13(2) of the EU Services Directive (2006/123/EC) requires that the licence fee paid by the applicant must be reasonable and proportionate to the cost of the authorisation (licensing) procedure and shall not exceed the cost of the authorisation procedure. This means that the costs of the proposed licensing schemes must be cost neutral whereby the total licensing fee income does not exceed the expenditure over the 5 year duration of the scheme.
- 5.56 Based on the evidence, information and data presented above and the estimation of costs, the proposed fee for a property in the Selective Licensing scheme is £600 for up to 5 years, and the proposed fee for a property in the Additional Licensing scheme is £900 for up to 5 years.
- 5.57 The fee is levied in two parts. Part 1 of the fee is for the application for a licence and covers the costs of processing, administration and validation of the application. Part 2 of the fee funds the running costs of the scheme, including licensing inspections and enforcement.

Type of Licence	Total	Part 1 fee element – processing and determination of application	Part 2 fee element – administration, management and enforcement of the scheme
<b>Selective Licence</b>	<b>£600</b>	£260	£340
<b>Additional HMO licence</b>	<b>£900</b>	£550	£350

**Table 6 - Proposed Selective and Additional License Fees**

- 5.58 The schemes (if implemented) will also comply with the procedural and formality requirements of the Provision of Services Regulations 2009 including a realistic time-scale for processing applications and notification of outcome.

## Licence Conditions

- 5.59 Sections 67 and 90 of the Housing Act 2004 allow local authorities to attach conditions to licences granted under additional and selective licensing schemes in order to regulate the management, use and occupation of the property (and in relation to HMOs to also regulate the condition of the property). This is in addition to the mandatory licence conditions that are required by the legislation.
- 5.60 The proposed licence conditions for the selective licensing scheme are set out in Appendix 9, and comprise matters such as:
- Provision of tenancy agreements
  - Obtaining references for tenants
  - Protection of any deposit by placing it in an authorised statutory tenancy deposit scheme
  - Provision of adequate facilities for the storage of waste and recycling
  - Provision of documents to tenants (eg gas certificate, Energy Performance Certificate, copy of licence and conditions, information about storage and placing of rubbish for collection)
  - Taking reasonable steps to prevent or address ASB
  - Regular inspections of the property, and address complaints about disrepair or housing conditions
  - Ensuring electrics, and any electrical appliances provided, are safe
  - Provision of a gas safety certificate every 12 months
  - Ensuring waste, furniture or other household contents discarded at a time of tenancy changes is not left on or outside the property
  - Provision of adequate numbers of smoke and (if applicable) carbon monoxide alarms
  - Notification of changes to ownership or management or occupation of the property
- 5.61 The proposed licence conditions for the additional licensing scheme are set out in Appendix 8, and comprise matters such as those for selective licences above but also include conditions such as:
- Bedrooms must meet minimum room sizes and must not exceed the maximum number of persons allowed for the room size as set out in legislation
  - Undertake a Fire Risk Assessment is undertaken and action to minimise the risk of fire at the HMO is taken
  - Maintain fire detection equipment, fire alarms and emergency lighting in good working order
  - Display a copy of the licence and conditions and emergency contact details

## The Public Consultation

- 5.62 As explained above, the local authority is required to consult on the proposed additional and selective licensing schemes for a minimum of 10 weeks. Enfield undertook an extensive and widely publicised consultation using various channels of communication, both inside and outside the borough, for just over 13 weeks between 28 August and 29 November 2019.
- 5.63 The public consultation was undertaken by an independent social research company called M.E.L Research Limited. Their report on the outcome of the consultation is at Appendix 1 and 1A.
- 5.64 The consultation used a variety of formats to engage and seek feedback from key stakeholders such as landlords, letting/managing agents, private renting tenants, residents, organisations representing landlords, managing agents and private renters and businesses. These included:
- An online questionnaire hosted on M.E.L Research's website (and a link to it from Enfield Council's website)
  - Two public (face to face) meetings with landlords and businesses
  - Two public (face to face) meetings with tenants and residents
  - Direct emails to over 2,500 stakeholders (2,132 of which were landlords)
  - A feedback form hosted on M.E.L Research's website
  - Provision of feedback via email or by telephone hosted by M.E.L
  - Interviews conducted with key stakeholders
- 5.65 The following documents were published on M.E.L Research's website (and a link to M.E.L's website from Enfield Council's website) to inform the public about the rationale behind the proposed licensing schemes and details of the proposal:
- Evidence report
  - Case studies
  - Ward summaries
  - The overview of the schemes
  - The proposed designated areas
  - The proposed conditions for Selective Licencing
  - The proposed conditions for Additional Licencing
  - The proposed licence fee structure
  - Frequently Asked Questions
- 5.66 A wide range of communication channels were used to extensively publicise the public consultation both inside and outside of the borough (regionally and nationally). This included:
- Enfield Council's website
  - Newspaper adverts
  - A social media campaign
  - A digital media campaign
  - E-newsletters, direct emails and letters

- A leaflet delivered to all residential addresses in the borough (127,000 properties and 5,000 business addresses)
- Leaflets, posters and pull up banners in public buildings
- Outdoor advertising; on-street Clear Channel advertising boards and banners

5.67 It was recognised that Landlords and Managing agents are a key stakeholder for the licensing proposals and so these audiences were specifically targeted by the following communication channels during the 13 week consultation period:

- A 9 week digital campaign reaching an audience of 67,609 and 238,875 impressions targeted at landlords living across London, resulting in 1,176 clicks to the public consultation website. The click through rate (CTR) for the full campaign was 0.49% which is higher than the industry average for display adverts of 0.35%
- Social media campaign – Enfield Council ran a social media campaign throughout the 13-week consultation targeted at landlords, residents and tenants. This campaign resulted in 474 clicks from 48 Twitter posts and 21 Facebook posts, and 69 re-tweets/shares and 153 likes. The Council also paid for a Facebook boosted post, 4 Facebook adverts and 3 Twitter adverts. These adverts were targeted at landlords and tenants, and the Facebook content reached 166,508 generating 2,372 clicks and the Twitter content had 175,566 impressions generating 896 clicks
- 2,132 landlords from the Council’s Enfield Connected database who had opted to receive communication were contacted in September via direct email, and chased up again in October.
- 93 local letting agents were contacted in September via direct email asking them to inform all landlords in the borough, and chased up again in October
- 5 National landlord/letting agents associations were contacted with details of the consultation and asked to circulate it to their membership. They were also asked for an in-depth interview on the proposals, of which 3 were carried out and 4 written responses received.
- A press release was sent to London Property Licensing web site, which is a landlord focussed website.

5.68 The report compiled by M.E.L Research Limited of the outcome of the public consultation is at Appendix 1 and 1A.

5.69 Several comments and suggestions were made during the public consultation. These, and the Council’s considered response to these comments and suggestions, are shown in Appendix 2 and considered below.

## Public consultation response to the proposed selective licensing scheme

*All figures quoted in the following paragraphs are from the Consultation Outcome Report (Appendix 1).*

5.70 Through the statutory public consultation, the Council proposed a selective licensing scheme, comprising of two designations covering 14 wards in the borough. The evidence base showed that the proposed designations have a high proportion of privately rented properties (above the national average of 19%). The areas are also experiencing:

- Poor property conditions;
- A high level of deprivation;

The first designation of 13 wards is also experiencing:

- A significant and persistent problem caused by anti-social behaviour.

5.71 There were 1,861 respondents to the consultation. There were 1,067 face to face questionnaires completed and 794 questionnaires completed online. The breakdown of results for both of these questionnaire methods is shown in Appendix 1A. There were also 9 stakeholder interviews completed, and 35 emails and formal letters received from stakeholders providing feedback.

5.72 As explained above, as landlords are a key stakeholder, communication about the consultation was specifically targeted towards landlords. 440 landlords responded to the public consultation. The size of the landlord population in the borough is unknown. A neighbouring London borough with a similar sized private rented sector has a known landlord population of 15,000 individuals. If this were similar to Enfield's borough, then the response rate for landlords to the consultation was about 3%. The consultation results showed that there was a high level of engagement from landlords. 2,661 of the 4,900 comments received (54%) were from landlords via the online questionnaire and face to face surveys. Approximately 70% of the attendees at the public meetings were landlords and letting agents.

5.73 1,031 residents responded to the public consultation. The latest Office of National Statistics population estimate for over 16 year olds in Enfield Borough is 257,503 (2018 mid-year estimate). This represents a response rate of about 0.4%. The population estimate will also include landlords and private rented tenants living in the borough.

5.74 365 private rented tenants responded to the public consultation. The size of the private rented tenant population inside the borough (or in a neighbouring borough) is not known. The 2018 GLA Annual Population Survey estimates that there are 32,800 households in the private

rented sector in Enfield borough. Whilst this is not individual renters, if each of the respondents were from separate private renting households (and it is recognised we cannot determine this), this would equate to about 1% of private rented households in the borough.

- 5.75 Two public meetings were held for landlords and managing agents attended by 182 landlords and managing agents. Two public meetings were held for private renting tenants and residents attended by 59 private renting tenants and residents.
- 5.76 It appears that proportionally we received a greater number of responses to the public consultation from the landlord population than from private rented tenants or residents. As a group, landlords were generally opposed to the proposals. The online questionnaire results were less positive about the proposals than the face to face questionnaire (Appendix 1A, Appendix 5). This is not surprising as the online questionnaire is self-selecting (and landlords/agents were the highest respondent group) whereas the face to face survey was a random sample based on the borough's population. Overall, the results of the consultation showed that there was strong support for the introduction of both proposed licensing schemes. This is set out in the paragraphs below.
- 5.77 Overall the majority of respondents, 69%, agreed with the proposal to introduce a selective licensing scheme in the 14 wards and 25% disagreed with the proposal. 86% of residents and 81% of tenants agreed with the Council's proposal to introduce selective licensing in the borough. Only 18% of landlords/agents agreed with the proposal and the vast majority of landlords (73%) disagreed. This is shown in the table below. The group 'other' comprised entities such as businesses, bodies representing businesses or a community group or charity.

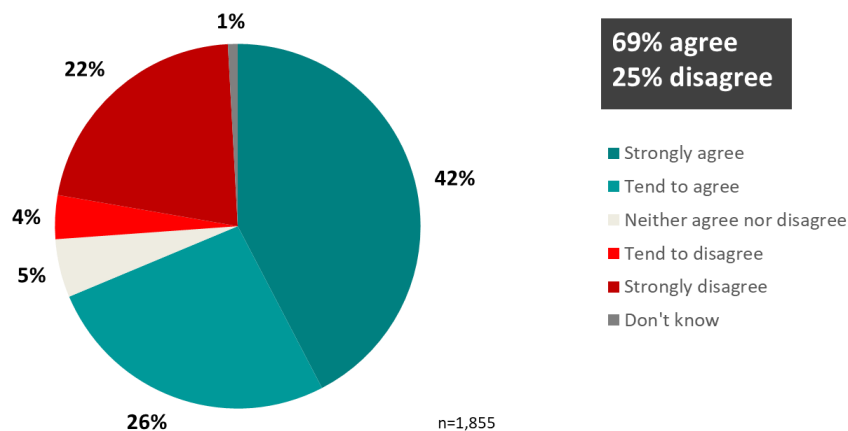
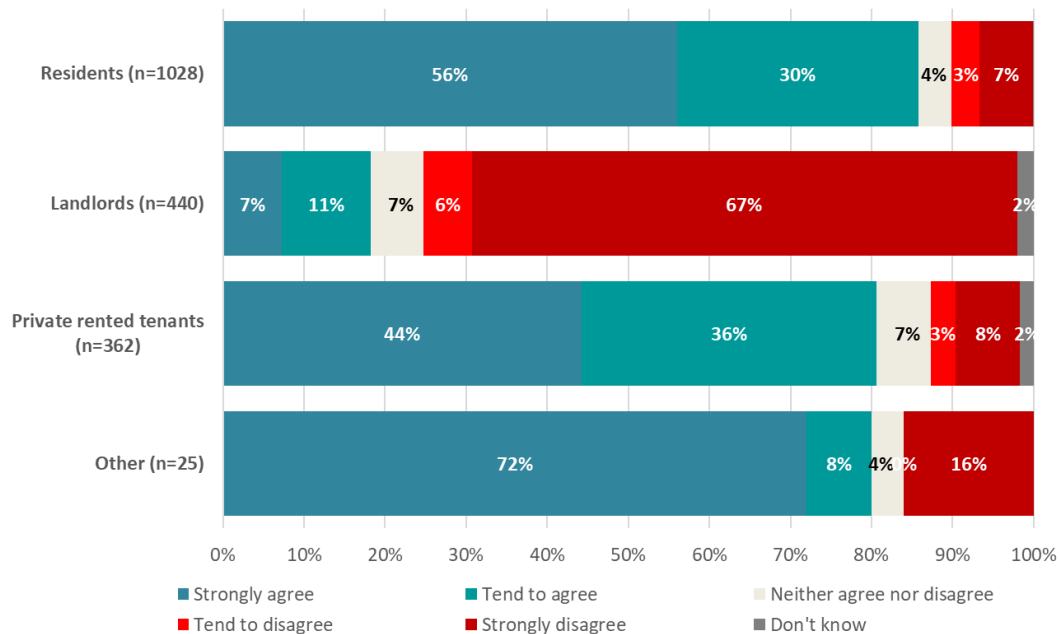


Figure 11 - Levels of support for introducing a Selective Licensing scheme



**Figure 12 - Levels of support for introducing a Selective Licensing scheme (by respondent group)**

5.78 There were 702 comments in relation to not supporting the selective licensing scheme. The most common reasons (more than 5 comments) were:

- Felt it was a money making scheme (96 comments)
- Good landlords should not be penalised (84 comments)
- Rents will increase - costs pass onto tenants (77 comments)
- Fees unnecessary cost to landlord (64 comments)
- Already systems/regulations to deal with problems, eg ASB (53 comments)
- Licensing not needed (51 comments)
- Will reduce availability of housing/push landlords out of borough (47 comments)
- Will not solve the problems - eg bad landlords will still operate (44 comments)
- Additional bureaucracy (35 comments)
- Disagree with the proposal – areas and conditions (28 comments)
- Generally disagree with the proposal (21 comments)
- Problems are not solely related to PRS - council housing and owned also - (20 comments)
- It is not landlords' responsibility (15 comments)
- Lack of evidence of licensing working (9 comments)

5.79 As explained in the evidence report and consultation materials, the costs of the proposed licensing schemes must be cost neutral whereby the total licensing fee income does not exceed the expenditure over the five-year duration of the scheme. A licence fee pays for the licensing schemes to bring about the necessary improvements. The strong evidence base demonstrates the issues and the need for licensing schemes in the borough, and that the existing powers alone are not

sufficient to tackle the large scale improvements needed. An independent review of selective licensing schemes published by the Government in June 2019<sup>7</sup> found that selective licensing schemes can be very effective and that it was market factors that contributed to rent increases rather than licence fees. It is understood that boroughs that have introduced licensing schemes have not experienced a noticeable decrease in private rented properties. All landlords (whether private rented, council housing or housing associations) have a responsibility to manage their properties, to keep them safe and to address ASB with their tenants. Council housing are making huge investment in their stock (£41 million in 2019/20 alone), and have teams dedicated to tackling ASB amongst council tenants.

- 5.80 The Council's considerations of these comments are detailed in Appendix 2. Having carefully considered the comments, it is not proposed to change the designations or area covered by the proposed selective licensing scheme.
- 5.81 There were a number of comments from respondents that selective licensing should cover the whole borough. However, at this time it was considered it is more targeted and more proportionate to select the wards with the highest and multiple issues of poor property conditions, deprivation and anti-social behaviour that together create the greatest demands on council services.

Consultation response to the proposed additional HMO licensing scheme

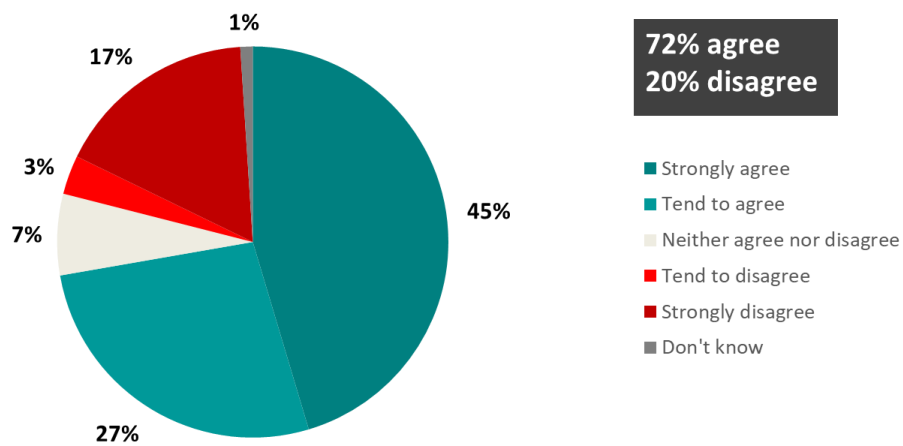
- 5.82 Through the statutory consultation, the Council proposed a borough wide additional licensing designation that would apply to HMOs that did not fall within the scope of mandatory HMO licensing, comprising HMOs occupied by 3 or 4 persons where one or more amenities are shared by more than one household. The proposal did not include HMOs defined under Section 257 of the Housing Act 2004 (a building converted into self-contained flats but does not meet the standards of conversion required by the Building Regulations 1991, and where less than two thirds of the flats are owner occupied).
- 5.83 Overall, the majority of respondents, 72%, agreed with the Council's proposal to introduce additional licensing for Houses in Multiple Occupation (HMOs) across the borough, with 20% of respondents disagreeing. 81% of tenants and 87% of residents agreed. 30% of landlords/agents agreed and 56% of landlords/agents disagreed.

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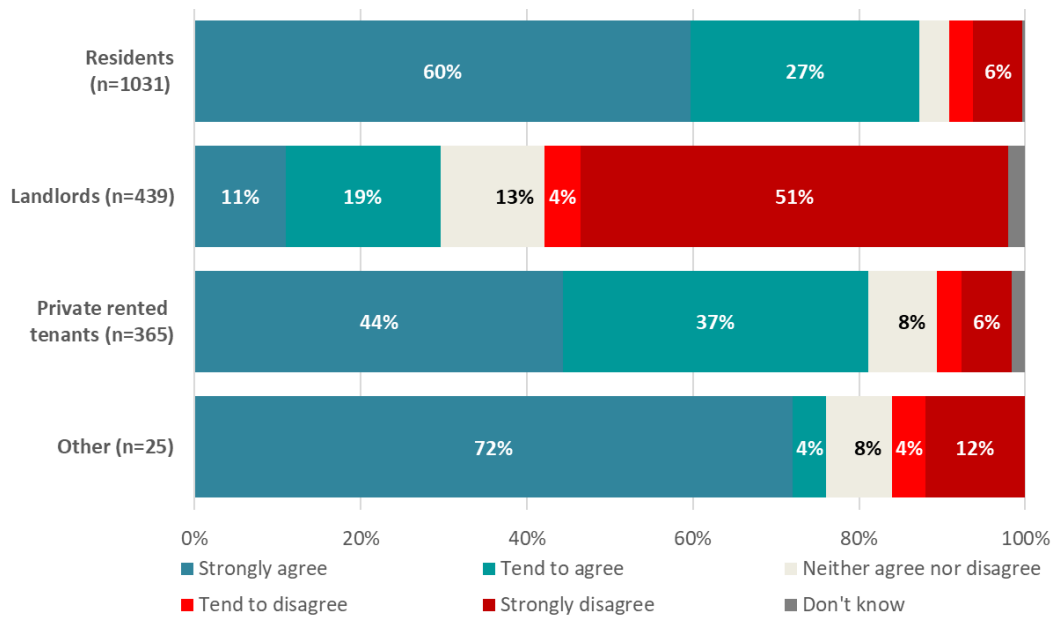
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**Figure 13 - Support for introducing a borough-wide Additional Licensing scheme**



**Figure 14 - Support for introducing a borough-wide Additional Licensing scheme (by respondent group)**

5.84 There were 590 comments in relation to not supporting the proposed additional HMO licensing scheme. The most common reasons (more than 5 comments) were:

- Felt it was a money making scheme (84 comments)
- Good landlords should not be penalised (76 comments)
- Rents will increase - costs pass onto tenants (65 comments)
- Already systems/regulations to deal with problems, eg ASB (52 comments)
- Disagree with fees/unnecessary cost to landlord (51 comments)

- Will reduce availability of housing/push landlords out of borough (41 comments)
- Will not solve the problems - eg bad landlords will still operate (41 comments)
- Problems are not solely related to PRS - council housing and owned also - (23 comments)
- Licensing not needed (23 comments)
- Additional bureaucracy (21 comments)
- Generally disagree (17 comments)
- Lack of evidence of licensing working (13 comments)
- It is not landlords' responsibility (13 comments)
- Disagree with the proposal – areas and conditions (10 comments)

5.85 The comments were generally the same reasons as those opposing the proposed selective licensing, albeit fewer comments were received about the additional licensing scheme.

5.86 The Council's considerations of these comments are detailed in *Appendix 2*. Having carefully considered the comments, it is not proposed to change the designations or area covered by the proposed additional licensing scheme. Discussion and consideration of the comments as in paragraphs 5.79 and 5.80 as also relevant to these comments.

#### Comparison with other London Boroughs' public consultations

5.87 A number of London Borough Councils have carried out public consultations for proposed selective and/or additional HMO licensing schemes in the last few years. The table below shows the most recently published data by those Councils of the levels of support for their licensing schemes. The comparison with Enfield Council shows that the majority of respondents support Enfield's proposed additional and selective licensing schemes, a stronger level of support than reported in some recent public consultation on similar schemes.

Borough	Selective Licensing		Additional Licensing	
	Agree	Disagree	Agree	Disagree
<b>Enfield</b>	<b>69%</b>	<b>25%</b>	<b>72%</b>	<b>20%</b>
Waltham Forest 2019	47%	31%	57%	23%
Brent	65%			
Redbridge	42%	52%		
Hackney	38%	55%	41%	55%
Croydon	Currently in consultation			

**Table 7 - Levels of support for Selective and Additional Licensing in other London boroughs**

#### Consultation response to the objectives of the proposed schemes and possible alternatives to licensing

5.88 When considering whether to make an additional or selective licensing designation a local housing authority must identify the objective or

objectives that a designation will help it to achieve. The proposed scheme objectives (alongside outcomes and outputs) formed part of the consultation and can be found in *Appendix 6*.

- 5.89 As required by legislation, the evidence report (*Appendix 3*) detailed a number of other courses of action or alternatives to selective and additional licensing that the Council had considered, but did not believe that, individually or collectively, provided an effective, or as effective a, means of tackling poor housing conditions, ASB and the conditions that make deprivation worse in the borough. Neither will they deliver the scale of improvement required in the private rented sector. A summary of these alternatives is:
- Use of Part 1 Housing Act 2004 enforcement powers [HHSRS] and Public Health powers
  - Voluntary accreditation schemes
  - Reliance on prosecutions and civil penalties for housing offences
  - Improvement grants to improve sub-standard properties
  - Use of ASB powers
- 5.90 Overall, there were 1,046 comments from respondents suggesting alternative ways the Council could address poor property conditions and management, anti-social behaviour and deprivation in private rented properties in the borough. There were 534 comments from landlords (51% of comments), 335 comments from residents (32% of comments), and 136 comments from private renting tenants (13% of comments).
- 5.91 The most common reasons (more than 5 comments) expressed in the 1,046 comments for alternative ways the Council can address poor property conditions and management, anti-social behaviour and deprivation in private rented properties in the borough were:
- More checks/inspections (110 comments)
  - General disagreement with the proposals (106 comments)
  - Better enforcement - follow up complaints, more officers and police (82 comments)
  - Easier system to report problems - eg website, app (74 comments)
  - Use existing powers/regulations (70 comments)
  - Agree with proposals/good idea (65 comments)
  - Fines for poor properties/landlords (59 comments)
  - Hold bad tenants to account (48 comments)
  - Focus on the worst culprits (36 comments)
  - Liaise with tenants and landlords/help them work together (26 comments)
  - More social/affordable housing (23 comments)
  - Use of court action/evictions (23 comments)
  - Introduce different/better standards (22 comments)
  - Maintain a register of landlords/properties (21 comments)

- Inform tenants of their responsibilities (20 comments)
- Council/Police should deal with ASB (20 comments)
- More rights for tenants/inform them of rights (16 comments)
- Better street maintenance/more investment in areas (14 comments)
- Rent control/caps (13 comments)
- Revoke ability to rent properties – blacklist (13 comments)
- Make landlords bring properties up to standard (12 comments)
- Hold management companies/agents accountable for bad landlords (12 comments)
- Checks already carried out by management agents (10 comments)
- More rights/protections for landlords (10 comments)
- Make management agents or accreditation compulsory (9 comments)
- Helpline for advice (8 comments)
- Grants/funding for landlords (8 comments)
- Install CCTV cameras (7 comments)
- Make ASB part of tenancy agreements/contracts (7 comments)
- Tenant vetting (6 comments)
- Case by case approach (6 comments)

5.92 A large proportion of the comments relate to the use of powers and enforcement (use powers/more enforcement, more checks/inspections, fine landlords, focus on worst culprits, hold agents to account for bad landlords and make landlords bring properties up to standard). The evidence report (Appendix 3, section 4) explains how the Council has increased its use of enforcement powers over the last 3 years and also specifically targeted rogue landlords. However, this alone has not been able to address the growth in the sector and the large scale improvement needed in the private rented sector. We recognise the need for robust enforcement, and as such around £5million will be used to resource the enforcement of the schemes. As there is strong support for the use of powers, we will look to introduce the use of civil penalties for breaches of housing legislation as an additional enforcement tool. Councils can impose a maximum fine up to £30,000 although this upper limit would be rare and only for most severe cases.

5.93 There were 74 comments about making it easier to report problems. We agree with the introduction of the schemes, if approved, we will make available online an easy to use form to report issues in relation to private rented properties as well as a dedicated telephone line and email address into the team.

5.94 There were many comments about ensuring that tenants and landlords know their rights, are protected, are well informed, have access to a helpline, that the council can help with the relationship between tenants and landlords and access to grants/funding by landlords. These are all helpful suggestions and we agree and with the introduction of the licensing schemes, if approved, we intend to provide such relevant information for tenants and landlords on the Council's website and

signpost to any funding for grants (eg energy efficiency). We will also resource a tenancy relations officer to give support to tenants and landlords.

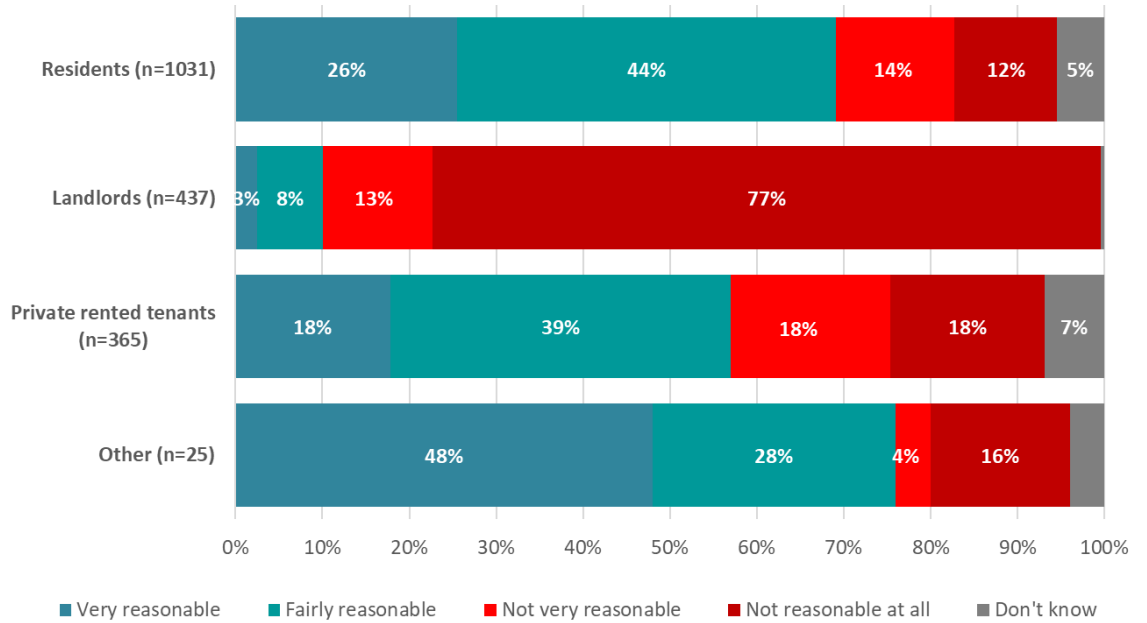
- 5.95 There were several comments about dealing with ASB caused by tenants (Council/Police to deal with ASB, tenant vetting and blacklisting tenants with known ASB, holding bad tenants to account and the use of evictions). The proposed licence conditions expect landlords in the first instances to take reasonable steps to address ASB with their tenants. However, the Council also has a role in assisting landlords where possible and helping to enforce the more serious/ongoing cases. So, in addition to the resource of a tenancy relations officer we will also provide additional ASB officers to provide this support.
- 5.96 There were 23 comments about provision of more social housing. We agree this is needed and the Council's Housing and Growth Strategy has a bold house building programme and ambition to massively increase housing supply is an opportunity to develop homes and neighbourhoods that are balanced with mixed incomes, are health-promoting, environmentally sustainable, child-friendly, age-friendly and accessible for people throughout their lifetime. The Council's Housing and Growth Strategy plans to invest in existing council homes to make sure they provide safe and secure homes for future generations and offer high-quality management services. Already in 2019/20, the Council launched a £41m investment programme to improve the condition of its own housing stock.
- 5.97 There were 21 comments about having a register of landlords (rather than licensing). This could potentially address part of the process that would be used for licensing; checking the landlord was 'fit and proper,' but does not address the need to undertake inspections to check the property conditions and how this would be resourced.
- 5.98 There were 13 comments about rent control/caps. This is not an area that the Council regulates for the private rented sector. However, we would seek to signpost or provide information about rents and their regulation on the Council's website alongside the other information suggested in paragraph 5.94.
- 5.99 There were 9 comments about requiring the use of managing agents or accreditation of the landlord. We have considered this. This suggestion has merit as a condition to be added to the licence if there are particular concerns with the conduct or management by an applicant or licence holder rather than as one of the standard conditions as it would be onerous to apply to all applicants.
- 5.100 The Council's considerations of these suggestions for alternatives to introducing licensing schemes are detailed in Appendix 2. Having carefully considered the suggested alternatives, whilst no alternatives were identified through the consultation process that would, individually or collectively, be capable of delivering the scheme objectives that the

Council would deliver through the operation of large scale selective and additional licensing schemes, there were a number of suggestions that the Council will implement alongside the proposed licensing schemes such as:

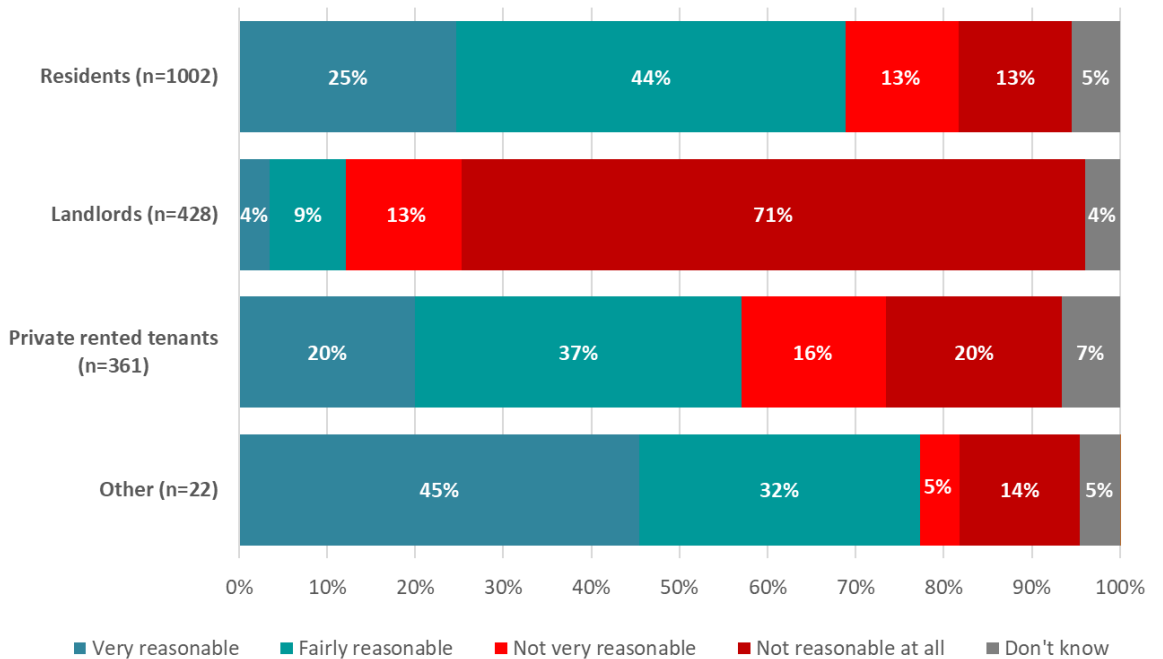
- Introduction of financial penalties (civil penalties under the Housing and Planning Act 2016) as an additional enforcement tool
- Easy means of reporting substandard properties (online form and dedicated telephone line and email)
- Dedicated webpages with information for both tenants and landlords
- Resources to support tenants and landlords such as tenancy relations and ASB officers
- If there are concerns about the licence holder or management of the property, we may impose a condition requiring the licence holder to be accredited but this will be on a case by case basis if considered necessary

#### Consultation response to the licence fee structure

- 5.101 Through the statutory consultation, the Council explained that the proposed licence fee in respect of an application to licence a property must be reasonable and proportionate to the costs of setting up, running and enforcing the licensing schemes and shall not exceed those costs. This means that the costs of the proposed licensing schemes must be cost neutral whereby the total licensing fee income does not exceed the expenditure over the five-year duration of the scheme. It was explained that the fees will be reviewed throughout the scheme and the council may adjust the fees to reflect changes in costs. The licence fee is for the duration of the scheme of up to 5 years.
- 5.102 Respondents were asked their views on the reasonableness of the Council's proposed fee structure for both additional and selective licensing. Overall just over half of respondents, 53%, said that they found the £600 selective licence fee reasonable and 43% said they found it unreasonable. Overall just over half of respondents, 53%, said that they found the £900 additional licence fee reasonable and 41% said they found it unreasonable.
- 5.103 As can be seen from the graphs below, residents were most supportive of the fees (69%) followed by private rented tenants (57%), and landlords were least supportive (only 12% were supportive of the additional licence fee and only 10% were supportive of the selective licence fee).



**Figure 15 - How reasonable respondents considered the proposed Selective Licence Fee (by respondent group)**



**Figure 16 - How reasonable respondents considered the proposed Additional Licence Fee (by respondent group)**

5.104 There were 1,096 comments about the reasonableness of the additional and selective licence fees. The most common reasons (more than 5 comments) were:

- Not in favour/generally disagree (277 comments)
- Too high/should be lower (238 comments)
- Will be passed onto tenants/rents will increase (212 comments)
- Appropriate/reasonable (77 comments)
- Will put new landlords off/existing landlords will sell up (49 comments)
- Two low/should be higher (46 comments)
- Should be annual payments/instalments (37 comments)
- Different fees for scale of properties let (29 comments)
- Should be free (24 comments)
- Fee should reflect rent/property (20 comments)

5.105 The licence fees have been calculated based on the estimated costs of setting up, operating and enforcing the licensing schemes. The costs must be met from the anticipated number of properties that would be licensed within the designated areas, rather than the size or rental value of the property. If the proposed fees were reduced, and therefore the costs reduced, this would impact on the resources available to deliver the schemes and reduce their expected effectiveness. There were high levels of support for the schemes elsewhere in the consultation (328 comments) if they are properly implemented and enforced. We are not aware of any Council that does not charge a fee for additional or selective licensing schemes. There were some comments that the fees were appropriate or should be higher.

5.106 There were high levels of comments about the cost of the licences being passed onto tenants in rent increases. This is a common concern with licensing schemes. However, an independent review of selective licensing schemes published by the Government found that rent increases were the result of market forces rather than licence fees. There were some comments that the fees were appropriate or should be higher.

5.107 We do not propose to offer a discount or reduced fee if applications are made early ('early bird') as some Councils provide. There were several (73) comments asking the council to consider reduced fees (incentives) received in the public consultation. The proposed fees have been based on the estimated costs of operating the licensing schemes, and if early bird discounts were now introduced this would reduce the resources needed for the schemes or result in higher fees being set for when the fee for the early bird discount expires. Therefore, for these reasons it is not recommended that early bird or other discounts are provided.

5.108 The Council's considerations of these comments about the proposed licence fees are detailed in Appendix 2. Having carefully considered the outcome of the public consultation regarding the fees and the need to ensure that the licensing schemes are appropriately resourced to



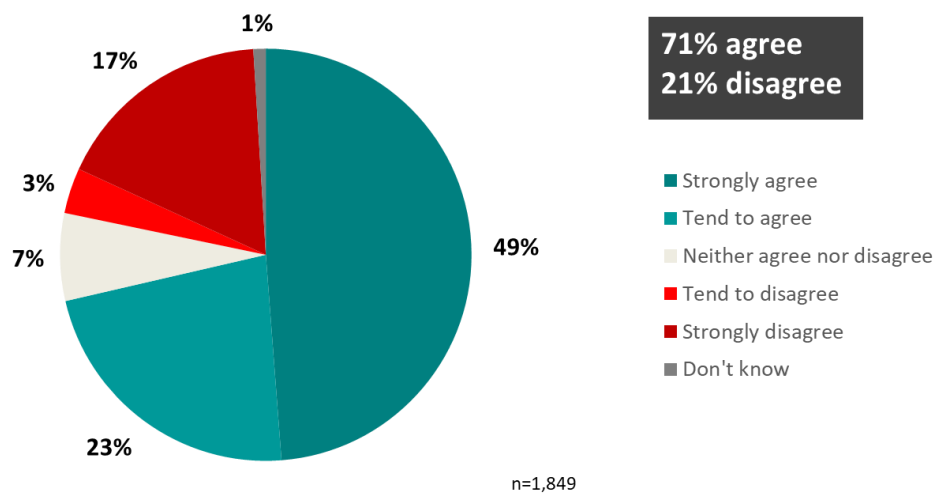
deliver the scheme objectives, it is not proposed that the level of fees are reduced or increased, but will be kept under review.

### Consultation response to the Licence Conditions

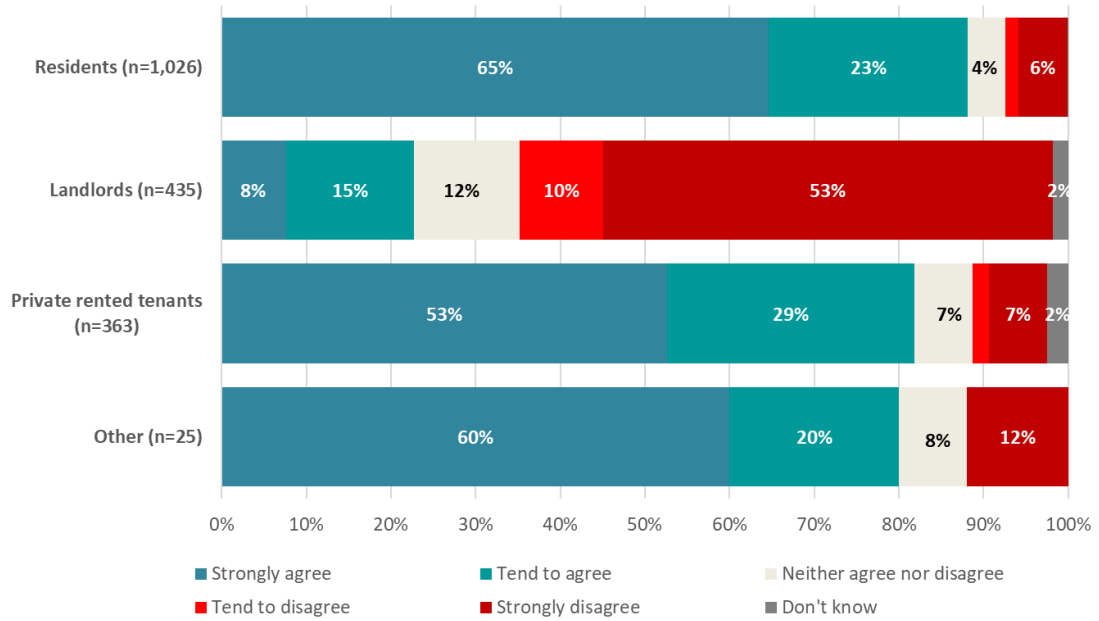
5.109 Through the statutory consultation, the Council set out its proposed licence conditions to accompany a granted property licence, placing obligations on the licence holder in relation to the letting and management of the property.

5.110 Overall, the majority of respondents, 71%, said they agreed with the proposed selective licence conditions and the majority of respondents, 73%, said they agreed with the proposed additional licence conditions.

5.111 Residents were most supportive of the selective licence conditions (88%), followed by private rented tenants (82%). 22% of landlords agreed.

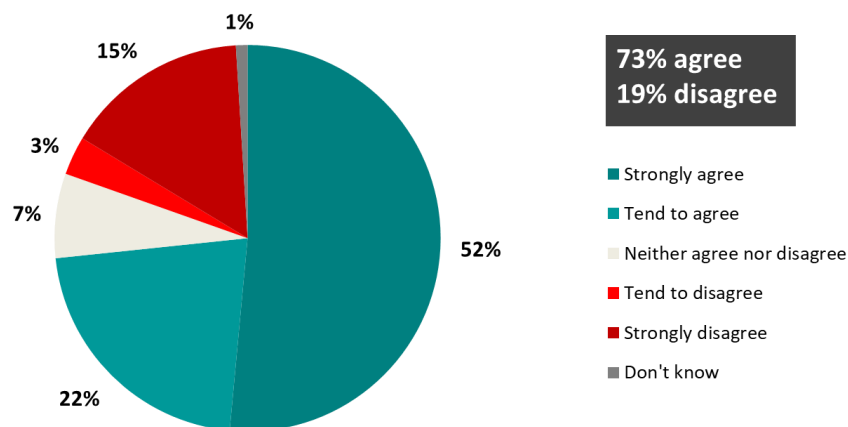


**Figure 17 - Levels of agreement or disagreement with the proposed Selective Licence conditions**

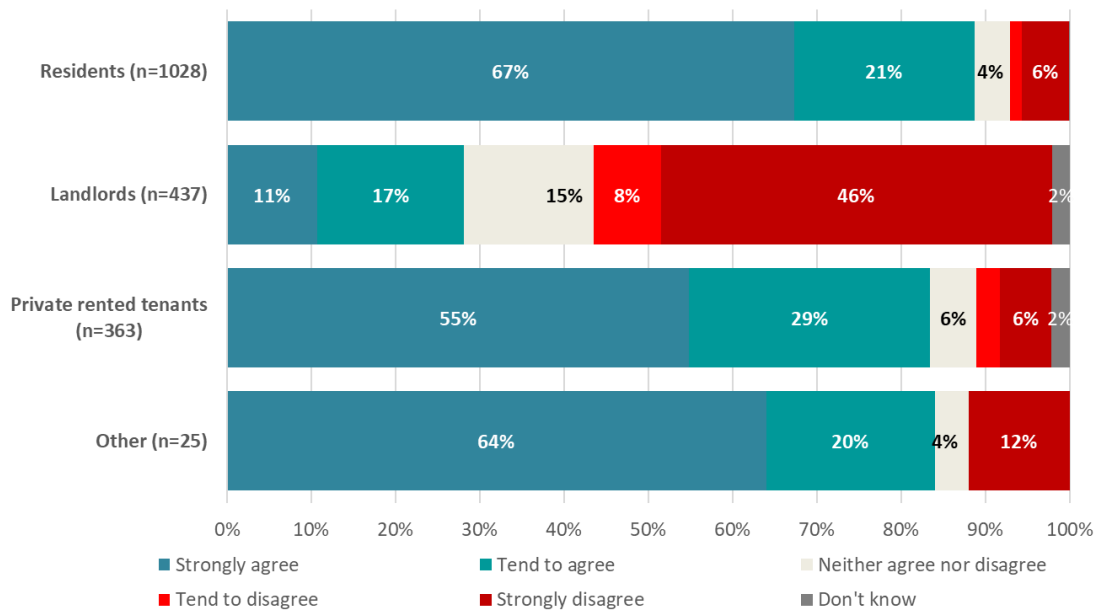


**Figure 18 - Levels of agreement or disagreement with the proposed Selective Licence conditions (by respondent group)**

5.112 Support for the proposed conditions was marginally greater for additional licences. Residents were most supportive of the additional licence conditions (89%), followed by private rented tenants (83%). 28% of landlords agreed.



**Figure 19 - Levels of agreement or disagreement with the proposed Additional Licence conditions**



**Figure 20 - Levels of agreement or disagreement with the proposed Additional Licence conditions (by respondent group)**

5.113 There were a number of comments and suggestions on both sets of licence conditions, some of which demonstrated that there is not a clear understanding of why the conditions are being proposed. This information will help to inform the communications around the licence conditions.

5.114 There were 288 comments on the selective licence conditions. The most common comments (more than 5 comments) were:

- Felt it was a money making scheme/additional tax (36 comments)
- It will raise rents (33 comments)
- Landlords doing a good job/unfair on good or small landlords (33 comments)
- Council should not interfere/no need for the scheme (32 comments)
- Licensing will not solve issues - eg ASB, rogue landlords (20 comments)
- Enough legislation in place/conditions already implemented (20 comments)
- Too strict/not adequate for the real world/too much responsibility on landlords (17 comments)
- Costly bureaucracy/waste of money and resources (14 comments)
- Unfair to landlords as tenants sometimes to blame (13 comments)
- Enforce current laws/fines and respond to residents' complaints (13 comments)
- Additional cost for landlords (11 comments)
- The schemes should only target problematic landlords/tenants (10 comments)
- Will diminish housing stock (9 comments)

- Council unable to manage their own properties so not capable of managing these schemes (7 comments)
- 5.115 Many of these themes have been considered and discussed above and are mostly about the schemes themselves rather than the proposed licence conditions. Most of the licence conditions reflect existing legal requirements so are not placing any additional responsibilities, costs or burdens on landlords.
- 5.116 There were 289 comments on the additional licence conditions. The most common comments (more than 5 comments) were the same as for comments on the selective licence conditions.
- 5.117 The Council's considerations of these comments about the proposed licence conditions are detailed in Appendix 2. In addition to the comments above there were some more specific comments on the proposed conditions. This included comments regarding whether draft condition 3.5 (regarding external decorative order) was correct as it could be considered a licence condition to regulate the 'condition' of property which is not permitted in the legislation for selective licensing. It was also suggested that draft conditions 8.1-8.3 in the additional licence conditions (regarding council tax responsibility and payments) were not correct.
- 5.118 As a result of the consultation representations received, the Council has decided to remove draft conditions 3.5 from both schemes and draft conditions 8.1-8.3 from the additional licence conditions. The revised proposed conditions are at *Appendix 8 (Additional Licensing)* and *Appendix 9 (Selective Licensing)*.

Other comments on the proposed additional and selective licensing schemes

- 5.119 At the end of the questionnaire respondents were asked if they had any further comments. There were 888 comments provided. The most common themes (more than 5 comments) were:
- Agree with the schemes if properly implemented and enforced (328 comments)
  - Adjust the fee/make it free/offer incentives (72 comments)
  - Could result in rent increase/rent control needed (69 comments)
  - Some of the proposals are unrealistic/not solve the issues – ASB, overcrowding (64 comments)
  - Schemes not needed/Council should not interfere/do not introduce the scheme (63 comments)
  - Felt it was a money making scheme (58 comments)
  - Unfair/unnecessary burden to some landlords (49 comments)
  - Amends or additions suggested/more info needed (46 comments)

- Might raise rents/diminish housing stock (34 comments)
- Target only the bad landlords (27 comments)
- Current legislation covers most/all of proposed measures, just enforce it (25 comments)
- Scheme difficult to implement/not cost effective and too bureaucratic (20 comments)

5.120 These themes have been considered and discussed above, and considered in more detail in Appendix 2. There was a high level of comments (328) in support for the licensing schemes but that the Council needs to ensure that they are properly implemented and enforced. We agree, and so if the proposed fee level (costs of the resources for the scheme) were reduced this would compromise their delivery and objectives. We will resource robust enforcement of the licensing schemes (about £5million).

#### Licensing Scheme exemptions

5.121 The statutory exemptions from licensing (Housing Act 2004) will apply to both schemes. These include, for example, properties where the Council holds the tenancy agreement directly with the tenant for temporary accommodation, registered social providers, properties that are subject to prohibition orders, where the full term of the tenancy is over 21 years. A full list of the statutory exemptions can be found on page 51 of the evidence report [Appendix 3].

## **6 COMMENTS FROM OTHER DEPARTMENTS**

### **6.1 Financial Implications**

6.1.1 The intention and requirement is that the schemes are self-financing over the five-year period it is in force. Using comparable modelling from benchmarking exercises, the cost for implementing and administering both schemes is estimated to be £19.8 million over the five-year period. The licence fees have been set in line with the requirements of operating the schemes and are at a level which is estimated to equal these costs.

6.1.2 Based on the estimated total cost of the scheme (£19.8m), the proposed fee for a Selective Licence is £600 per property for up to 5 years, and the proposed fee for an Additional Licence is £900 per property for up to 5 years. The fee is levied in two parts; part 1 of the fee is for the application for a licence and covers the costs of processing, administration and validation of the application. Part 2 of the fee covers the running costs of the scheme, including the licensing inspections and enforcement.

6.1.3 The licence fee paid must be reasonable and proportionate to the cost of the authorisation (licensing) procedure and shall not exceed the cost of the authorisation procedure. This means that the costs of the

proposed licensing schemes must be cost neutral; whereby the total licensing fee income does not exceed the expenditure over the five-year duration of the scheme.

6.1.4 Proposed Licence Fees and estimated income over the five-year period are show in the table below: -

Type of Licence	Part 1 Fee Processing and determination of application	Part 2 Fee Administration, management and enforcement of the scheme	Total
Selective Licence	£260	£340	<b>£600</b>
Additional HMO licence	£550	£350	<b>£900</b>

Scheme	Estimated Income From Fees £
Selective (est. 22,997 x £600)	13,798,200
Additional (est. 6,662 x £900)	5,995,800
<b>Total</b>	<b>19,794,000</b>
<p>Note: There are allowances in the maximum potential income for bad debt, and some private rented properties that might not come forward/be identified and exempt tenancies/properties (ie other Council's temporary accommodation in the borough).</p>	

6.1.5 The forecast costs and income over the five-year period are as follows:

<b>Scheme 5 Year Operating Costs</b>							
<b>5 Year Projections</b>	<b>Year 0 £</b>	<b>Year 1 £</b>	<b>Year 2 £</b>	<b>Year 3 £</b>	<b>Year 4 £</b>	<b>Year 5 £</b>	<b>Total</b>
Staffing (Employee Costs)	914,664	3,558,422	3,373,467	2,414,137	2,337,006	2,382,146	<b>14,979,842</b>
Staffing (Indirect Employee Costs)	38,695	60,895	57,400	60,895	57,400	57,400	<b>332,685</b>
Consultancy, Implementation and Research Costs	583,000	10,000	10,000	10,000	10,000	10,000	<b>633,000</b>
Communication Costs	2,000	11,740	6,610	2,765	2,765	2,765	<b>28,645</b>
IT & Equipment Costs	271,500	59,400	41,500	51,500	41,500	51,500	<b>516,900</b>
Legal Costs	148,000	143,760	46,760	46,760	46,760	46,760	<b>478,800</b>
Other Operational Costs	0	10,579	3,980	3,980	3,980	3,980	<b>26,499</b>
Overhead and Management Costs	323,047	636,041	584,053	427,356	412,403	414,729	<b>2,797,629</b>
<b>Total Costs</b>	<b>2,280,905</b>	<b>4,490,837</b>	<b>4,123,770</b>	<b>3,017,393</b>	<b>2,911,814</b>	<b>2,969,280</b>	<b>19,794,000</b>
<b>Income from License Fees</b>							
<b>5 Year projections</b>	<b>Year 0 £</b>	<b>Year 1 £</b>	<b>Year 2 £</b>	<b>Year 3 £</b>	<b>Year 4 £</b>	<b>Year 5 £</b>	<b>Total</b>
Estimated Additional income	0	2,698,200	1,499,400	599,400	599,400	599,400	<b>5,995,800</b>
Estimated Selective Income	0	6,208,800	3,449,400	1,380,000	1,380,000	1,380,000	<b>13,798,200</b>
<b>Total Income</b>		<b>8,907,000</b>	<b>4,948,800</b>	<b>1,979,400</b>	<b>1,979,400</b>	<b>1,979,400</b>	<b>19,794,000</b>
<b>Surplus (green) Deficit (red)</b>	<b>2,280,905</b>	<b>-4,416,163</b>	<b>-825,030</b>	<b>1,037,993</b>	<b>932,414</b>	<b>989,880</b>	<b>0</b>

6.1.6 The estimated investment in year zero (£2.28m) will be funded from the Council's Corporate reserves, and will be offset/covered through the estimated surplus in year one. This will be included in the budget to be agreed by Council on 26 February 2020.

6.1.7 Over its life (5 years), the schemes are expected to cover its full costs of £19.8m, through the income generated from the proposed licence fees.

## **6.2 Legal Implications**

### **Jeremy Chambers – Director of Law & Governance**

- 6.2.1 I have considered the contents of the report and the advice given by Counsel. I am content that the work done by officers to date and the matters before Cabinet are appropriate and minimise the risk of any successful legal challenge.

Counsel has provided advice and guidance to the Council as part of the proposed Additional and Selective Licensing schemes and continues to work with the lead officers. The following legal implications have been prepared in full consultation with Counsel.

Parts 2 and 3 of the Housing Act 2004 provide powers for local housing authorities to designate areas, or the whole of the area of its district, for additional (Part 2) and/or selective (Part 3) licensing of private rented accommodation.

These powers are available where the local housing authority is satisfied that specified criteria are met as set out below and within this report.

The exercise of the powers must be consistent with the Council's overall housing strategy and the Council must adopt a co-ordinated approach in connection with improving housing standards and tackling deprivation and inequalities including homelessness, empty properties and antisocial behaviour.

#### **Criteria for Additional Licensing**

- 6.2.2 Part 2 of the Housing Act 2004 allows local authorities to designate HMOs as subject to an additional licensing scheme. Section 56 empowers a local housing authority to designate the area of their district, or an area in their district as subject to additional licensing in respect of the description of HMOs specified in the designation outlined in the consultation documentation where it considers that a significant proportion of those HMOs in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 6.2.3 This report outlines the legislative conditions, at paragraphs 3 and in Appendix 3.

#### **Criteria for Selective Licensing**

- 6.2.4 Under Part 3 of the Housing Act 2004, local authorities may designate an area as subject to selective licensing, requiring those managing or



having control of privately rented accommodation (that does not have to be licensed under other licensing schemes) to obtain a licence. Section 80 of the Act empowers a local housing authority to designate the area of their district, or an area in their district as subject to selective licensing of residential accommodation other than HMOs, where it considers that a designation is experiencing one or more of the following conditions:

- (i) Poor property conditions
- (ii) High levels of deprivation
- (iii) A significant and persistent problem caused by anti-social behaviour
- (iv) High levels of migration
- (v) High levels of crime
- (vi) Low housing demand (or likely low housing demand in the future, in this case Enfield has a high housing demand and hence is not considering this criteria)

6.2.5. The non-statutory guidance - *Selective licensing in the private rented sector: A guide for local authorities* (March 2015) required consideration in conjunction with legislative provision in any designation of any Selective Licensing Scheme. Further, *An Independent Review of the Use and Effectiveness of Selective Licensing* June 2019 (updated September 2019) has been considered and informed the proposed selective licensing scheme.

6.2.6 The evidence base highlights that the conditions (i-iii) at 6.2.4 have been met along with additional required factors, as provided at paragraphs 3 and in Appendix 3.

#### Mandatory requirements for additional or selective licensing

6.2.7 Before designating an area of additional or selective licensing, the authority must take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made in accordance with the consultation and not withdrawn. Any consultation must meet the basic requirements known as the Sedley Criteria from *R v Brent London Borough Council ex p Gunning [1985] 84 LGR 168* to ensure fairness, namely, (i) consultation must arise when the proposals are at a formative stage, (ii) the proposer must give sufficient reasons for any proposal to permit an intelligent consideration and response, (iii) adequate time must be given for consideration and response and (iv) the product for consideration must be conscientiously taken into account in finalising any statutory proposals. The consultation, consideration thereof and any actions which have informed the proposed schemes along with its outcomes are outlined at Appendix 1, 1A and 2.

- 6.2.8 The authority must ensure that any exercise of the power to designate areas of additional or selective licensing is consistent with the authority's overall housing strategy. This is outlined at paragraphs 5.47- 5.54 and in Appendix 3.
- 6.2.8 The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, as regards combining licensing with other courses of action available to it, or measures taken by others. The co-ordinated approach is outlined at paragraphs 5.47- 5.54 and in Appendix 3.
- 6.2.9 Designations cannot come into force unless they have been confirmed by the appropriate national authority, or where they fall within a description of designations in relation to which that national authority has given a general approval.
- (a) Should this report be approved, the Council will make the necessary application to the national authority for approval in relation to the proposed London Borough of Enfield Designations for Areas for Selective Licensing 2020 scheme.
  - (b) The proposed London Borough of Enfield Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2020 scheme falls within a description of designations in relation to which the Secretary of State has issued a General Approval under section 58 of the Act, namely, The Housing Act 2004: Licensing of Houses of Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 which came into force on 1 April 2015
- 6.2.10 As soon as any designation is confirmed or made, the authority must publish a notice containing prescribed information stating that a designation has been made. The authority must also make copies of the designation and information available to the public for as long as the designation is in force. The Council will publish the draft Designation Notice(s) at Appendix 4 and 5 within the prescribed time limit of 7 days provided at sections 59 and 83 for the Additional and Selective Licensing Schemes respectively.
- 6.2.11 A designation ceases to have effect no later than 5 years after the date on which it comes into force. The authority must from time to time review the operation of any designation made by them and it may revoke a designation and, if it does so, must publish a notice of the revocation in prescribed form as provided by sections 60 and 84 for additional and selective licensing respectively.

#### Grant of licences

- 6.2.12 The authority must apply a 'fit and proper person' test to applicants for the grant or refusal of any licence to additional and selective licensing

(Housing Act 2004 ss 66 and 89 respectively) and may include in any licence such conditions as it considers appropriate for regulating the management, use or occupation (and the condition in relation to additional licences) of the house concerned (Housing Act 2004 ss 67 and 90 respectively). In the instance of a dispute, the applicant(s) or any relevant person will have a right of appeal to the appropriate Tribunal in line with ss 71 and 94 respectively and Schedule 5 Part 3 Housing Act 2004.

### Fees

6.2.13 When setting the licence fees for additional and selective licencing the authority may take into account all costs incurred by it in carrying out its functions as provided by the Housing Act 2004 Part 2 and 3 Sections 63 and 87.

The non-statutory guidance - *Selective licensing in the private rented sector: A guide for local authorities* (March 2015) requires a Local Authority to set out the proposed fee structure and level of fees the authority is minded to charge (if any) as part of its consultation (this is evidenced at Appendix 1, 3 and 7. In line with this Guidance it must also set out the details of any fees that will be charged in its application to the Secretary of State.

The proposed fee structure and level of fees the authority is minded to charge for Selective and Additional Licencing is evidenced at Appendix 7.

6.2.14 ***R(Gaskin) v Richmond Upon Thames LBC [2018] EWHC 1996 (Admin)***, notes that the licensing provisions under Part 2 of the Housing Act (and by implication Part 3 also) constitute an “authorisation scheme” to which the Provision of Services Regulations 2009 apply and as such “*any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.*” Reg. 19 of the Provision of Services Regulations provides “*that authorisation procedures and formalities provided for under an authorisation scheme must secure that applications for authorisation are processed as quickly as possible and, in any event, within a reasonable period running from the time when all documentation has been submitted; that such period must be fixed and made public in advance*”. Reg 20 lays down further procedural requirements.

***Hemming v Westminster CC (No 2) [2018] AC 676***, the Supreme Court confirms that “*European law permits a fee to cover costs of running and enforcing the licensing scheme becoming due upon the grant of a licence*”.

Accordingly, fees are required to be charged in two parts, namely, (i) an application fee covering authorisation procedures and formalities and (ii) upon the grant of any licence a fee covering the running and enforcing costs of the scheme.

### Challenge

6.2.15 A designation may be challenged by way of judicial review. The time for seeking judicial review is within 3 months of the date the designation is made. The general legal principles of reasonableness, procedural propriety and proportionality will be applied by the courts on any such review.

## **6.3 Property Implications**

If the licensing schemes are approved, office space will be required for the new team of staff. There will be a requirement in at least the first year for office space for approximately 70 staff. We will work with the Council's Facilities Management Team to identify the appropriate size and location of office space to accommodate the new team taking account of mobile/agile and flexible working requirements. Some of the staff will be office based (eg licensing administrative staff) and many staff (eg inspectors) will be mostly working out of the office.

## **7 KEY RISKS**

7.1 The most significant risk would be to not designate additional and selective licensing schemes as we will fail to effectively tackle the large scale improvement required in the private rented sector. In addition, surrounding Councils have either one or both schemes in place. This makes the borough potentially more vulnerable to be targeted by rogue landlords wishing to operate with relative impunity. Anecdotally, there is experience of criminal landlords setting up new businesses in areas without licensing.

7.2 There is a potential risk that the selective licensing confirmation could be rejected by the Secretary of State.

Mitigation: Since the change in the legislation requiring Secretary of State confirmation for large scale selective licensing, 80% of schemes have been approved by MHCLG including large scale schemes in Newham, Barking & Dagenham and Redbridge. This potential risk is considered low given the robust evidence base (*Appendix 3*) and the extensive Public Consultation and outcome (*Appendix 1 and 1A*). If the Secretary of State did not confirm the selective licensing scheme the Council would consider the most appropriate legal steps based on the grounds of refusal. Consideration would be given to only implementing an additional HMO licensing scheme at that time.

- 7.3 There is a potential risk of Judicial Review of the Council's decision to designate the selective and additional licensing schemes, or any Secretary of State decision on selective licensing. Judicial Reviews of public authorities are a procedural challenge to the way in which a decision has been made, rather than the conclusion reached. This is a potential reputational and financial risk to the Council.

Mitigation: The Council has engaged Counsel with particular expertise in this subject area, and specialists to advise and support us throughout the process. The data and evidence base has been subject to detailed and quality assured processes to ensure that the proposed licensing schemes are reasonable and well founded. Extensive publicity has been undertaken during the 13 week public consultation period (in excess of the statutory requirement of 10 weeks in the Housing Act 2004) which has seen high levels of engagement and feedback, and high levels of support for both licensing schemes. There has been prolonged engagement with Counsel providing assured legal advice regarding the evidence base and public consultation documents. The general legal principles in determining any Judicial Review are reasonableness, proportionality and procedural propriety. Having considered all of these factors, the likelihood of a successful Judicial Review is considered low.

- 7.4 It is well recognised that as with all local authorities approving designations for additional and selective licensing schemes, much preparation, resource and expenditure takes place in advance of the introduction of the schemes. This includes preparation such as implementing IT and recruiting staff. There is a potentially risk that the introduction of the schemes could be delayed due to difficulties with staffing or IT for example (or as mentioned above, a legal challenge). This poses a potential financial risk to the Council as expenditure is required in advance of licence application fee income being received when the licensing schemes 'go live'.

Mitigation: A draft project plan and risk register for the implementation of the licensing schemes has been prepared. This will ensure that any risks to implementation have been identified and measures taken to eliminate or reduce the risk. The project plan will be monitored regularly by a Governance Board and any corrective actions taken to ensure that the licensing schemes can be delivered on time.

## **8 IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

One of the Council's key promises in the corporate plan is "*Delivering initiatives to improve standards in the private rented sector and tackle rogue landlords.*" The introduction of additional and selective licensing schemes is fundamental to the delivery of that promise and is the most important tool the Council will have to enable an improvement in the

standard of privately rented homes and making Enfield a place that does not tolerate rogue landlords.

The schemes will also work positively and supportively with good landlords to raise the professionalism and management of the sector and ensure that properties are safe, secure and well-maintained.

By improving standards in the private rented sector and tackling rogue landlords, this will improve the neighbourhood as a whole and will help to encourage investment in regeneration and housing in the borough. Together, these will enable the Council to deliver on its aim of, “Working with the public and private sector to deliver decent, safe housing that meets residents’ needs.”

## **8.2 Sustain strong and healthy communities**

A good quality private rented sector will encourage residents to stay in Enfield, in turn creating sustainable communities. A poorly managed rented sector, with badly maintained properties, not only encourages a faster turnover of tenants but often distracts from the look and feel of the street. This can put off residents of all tenures from remaining in the borough and destabilises the community.

The main objective of both licensing schemes is to improve the management and maintenance of properties in the sector. The licensing schemes, in particular, will have a specific aim to reduce category 1 hazards in the private rented sector, such as excessive cold, damp, infestations and fire/electrical issues, which adversely affect the health and wellbeing of residents. This supports the Council’s corporate aim to “Build measures into all our strategies and projects that will help improve public health and people’s wellbeing.”

Another of the objectives of introducing licensing in Enfield is to reduce property-related ASB. This is consistent with Enfield’s’ corporate plan pledge of “Working with partners to make Enfield a safer place by tackling all types of crime and anti-social behaviour; and protecting the local and urban environment.”

## **8.3 Build our local economy to create a thriving place**

The introduction of selective and additional licensing in Enfield aims to provide an improved standard of housing within the private rented sector. Poor property conditions are borne by the most vulnerable and economically disadvantaged in the community so, by improving housing conditions these schemes will help the council to deliver on its pledge to “work on reducing inequalities to make Enfield a place for people to enjoy from childhood to old age.”

An improvement in property conditions also has an inevitable positive effect on the streetscape, and will help to ensure “*our high streets and town centres thrive and attract people to live, work and visit.*”

## **9 EQUALITIES IMPACT IMPLICATIONS**

- 9.1 A full Equalities Impact Assessment (EQIA) was carried out prior to the public consultation and has been reviewed and revised in the light of feedback from the public consultation. The Equalities Impact Assessment is at Appendix 10.
- 9.2 Enfield Borough is characterised by significant inequalities between the relative affluent west of the Borough and the deprived east, separated by the A10, which represents both a physical and social boundary between communities. The licencing schemes should help those that are most disadvantaged through ensuring that proper tenancy arrangements are in place. The elimination of overcrowding and addressing poor energy efficiency within the private rented sector will help to improve the health outcomes of the most disadvantaged groups. Overall, tenants will benefit from an improvement in their property conditions and better standards of tenancy management.
- 9.3 The public consultation on the proposed licensing schemes was widely publicised using various media including ethnic newspapers and voluntary and third sector organisations. The ethnicity breakdown of Enfield's population was taken account of in determining the same size for the 1,067 face to face surveys across the borough. Stratified random sampling was undertaken for each ward in order to take account of the age and gender profile in each ward. We collected equality monitoring information as part of the public consultation process (please refer to Appendix 1A Page 51-54). This showed that the age and gender of respondents were broadly representative of the Enfield population, as were disability and work status. Ethnicity was broadly representative amongst respondents for many groups, although 'White - English' was overly represented and some groups were slightly under represented amongst respondents; 'White – Other', Greek Cypriot, Turkish, Black Somali and Black African and 'Black – Other'.
- 9.4 The Action Plan (Appendix 10) identifies actions from the EQIA to be undertaken.

## **10 PERFORMANCE AND DATA IMPLICATIONS**

- 10.1 The objectives of the licensing schemes are explained in section 15 of the evidence report (Appendix 3). These are to:
- Improve property conditions and management standards
  - Reduce the factors that make deprivation worse
  - Reduce Anti-social behaviour

These are supported by outputs detailed in section 15 (appendix 3) to achieve the outcomes.

- 10.2 Comprehensive performance indicators and a robust performance monitoring will be developed and monitored regularly to ensure that progress with these objectives is achieved. Performance will be reported regularly to the departmental management team and the Council's Executive Management Team and/or Assurance Board. A number of these indicators are likely to also feature on the Quarterly report for Cabinet.
- 10.3 A detailed analysis of the Borough and its wards are produced annually that review amongst other things the changing deprivation, ASB and customer demographics of the area. This analysis can support us in understanding any changes that are resulting from the licensing schemes.
- 10.4 Detailed analysis can be undertaken looking at any new releases of Deprivation data to look at how wards are changing over time which will help assess the relative success of the scheme.

## **11 HEALTH AND SAFETY IMPLICATIONS**

- 11.1 As an employer, the Council has a duty towards employees under section 2 of the Health and Safety at Work etc Act 1974, so far as is reasonably practicable. Fundamental to this is the requirement for employers to undertake a suitable and sufficient assessment of the risks to the health and safety of staff and to take measures to eliminate or reduce the risks. Staff should be informed of these risks and control measures, and provided with any necessary health and safety training.
- 11.2 There are existing risk assessments for housing enforcement staff and these will apply to new staff that are recruited for the licensing schemes. The risk assessments are reviewed and revised as necessary on an ongoing basis.
- 11.3 One of the main risks to housing enforcement officers in undertaking inspections and enforcement are the risks associated with lone working. There are already Council policies and arrangements in place to address the risks of lone working which would also apply to new staff recruited for additional and selective licensing schemes.

## **12 HR IMPLICATIONS**

- 12.1 New roles and posts will be created in order to appropriately resource and deliver these licensing schemes. All new posts will require a job description and person specification, and the grade of the post will need to be evaluated.
- 12.2 Recruitment to the posts will be undertaken in accordance with the Council's HR recruitment policies and procedures.



- 12.3 A comprehensive staffing workforce project plan will be developed with the Council's human resources team.

### **13 PUBLIC HEALTH IMPLICATIONS**

- 13.1 Warm, safe affordable housing is fundamental to health. The quality of housing is crucial with, for example, damp housing being associated with increased incidence of respiratory conditions, homes that are expensive to heat increasing the risk of fuel poverty and overcrowding meaning that, for example, children have less space to study and more likely to be interrupted / distracted when they are studying.
- 13.2 Research by Shelter, the Housing Charity, has shown that poor housing increases a child's risk of severe ill-health and disability during childhood and early adulthood by 25% and that it leads to lower educational achievement, greater likelihood of unemployment and poverty. Research for the Health Foundation indicates that for every £1 invested in housing saves £2 in costs avoided to public services including care, health and crime. The Building Research Establishment (BRE) estimates that the cost of poor housing to the NHS is £1.4 billion per year.
- 13.3 An improvement in the living conditions of the most vulnerable and deprived in the borough is one of the aims of introducing the licensing schemes. Additional HMO licensing scheme and a selective licensing scheme in 14 wards will help raise housing standards by identifying removing dangerous defects from privately rented accommodations. The inspection and enforcement of the licensing schemes aim to improve housing conditions and management and reduce the factors that make deprivation worse. As a result, the proposed licensing changes may contribute to an improvement in the health outcomes of private tenants. Nonetheless the licensing measures in itself will not improve the respiratory diseases related to damp and mould which are made worse by fuel efficiency measures, that inhibits ventilation, when the tenants cannot afford heating due to fuel poverty. Licensing in itself will not solve a key underlying cause which is poverty. A co-ordinated approach with other Council Strategies and agencies is needed to tackle housing standards, deprivation, homelessness, empty properties and antisocial behaviour in the private rented sector.

## **Background Papers**

'London Borough of Enfield Private Rented Sector: Housing Stock Condition and Stressors Report' produced by Metastreet Limited.

## **Appendices**

Appendix 1: M.E.L Research report on the outcome of the public consultation

Appendix 1A: M.E.L Research report Appendices

Appendix 2: The Council's consideration of the consultation feedback

Appendix 3: The Evidence report

Appendix 4: Selective Licensing Scheme Designations

Appendix 5: Additional Licensing Scheme Designation

Appendix 6: The Licensing Schemes objectives

Appendix 7: Fee structure for the licences

Appendix 8: Selective Licence conditions

Appendix 9: Additional Licence conditions

Appendix 10: Equalities Impact Assessment