

# Selective licensing

## Response to points raised during consultation

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We've consulted on a proposal to introduce a **selective licensing scheme** and the following points were raised during the consultation.

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# 1. Understanding and impact of the scheme

## Comments received

- Penalises good landlords / bad landlords will continue to operate.
- Reduce availability of housing / push landlords away from area.
- Proposed scheme is unrealistic / Licencing will not solve issues / better way.
- Unfair / unnecessary (costs) burden to some landlords.
- Will improve living conditions / local area, standards and safety / better monitoring and control / protects tenants.
- Costly, bureaucratic, waste of money / resources.
- Money making scheme / waste of money / revenue should be reinvested into area.
- Many commented that licensing does not offer any benefits to landlords – it is all take and no give. The council creates obligations but does not offer support to comply.
- Currently legislation already in place / enforce it.
- Scheme difficult to implement and police / too bureaucratic.
- Another point raised at the voluntary sector forum was around where most homelessness applications were coming from, whether it was mostly HMOs or selective properties.
- Money making scheme / waste of money / revenue should be reinvested into area.
- Needs to be expanded further for fairness.
- Need improved living conditions, standards and safety/ better monitoring and control / protection for tenants.
- Some landlords were still not clear on the purpose of the licensing scheme and what it was meant to be doing other than collecting money for the council.
- Need positive impact on neighbours and the local area (ASB, flytipping, overcrowding) / Get rid of slum landlords.
- One tenant said that landlords are not working in partnership with the council, using 'rogue-style' agents to manage their properties and create unnecessary disruption for tenants living in their properties.
- Concerns were raised around this scheme forcing landlords to leave the area, who are a necessity to house residents in the area due to the council having limited social housing options.
- A delegate from CAB at the voluntary sector forum explained they were getting numerous issues coming into them, including fire hazards, and that it's positive to have engagement

with the PSH team. Ultimately they expressed support towards the licensing scheme.

- One tenant was interested in understanding the 'fit and proper' review of landlords, stating that many landlords delegate tasks to managing agents, and how this fit into the scheme in terms of dealing with poorly run private rented property and who takes blame.
- Some landlords were still not clear on the purpose of the licensing scheme and what it was meant to be doing other than collecting money for the council. Another suggested the council build an evidence base on other areas where the licensing scheme has been a success.
- Some raised concerns with the level of disrepair outlined in the council's evidence base for the licensing scheme, and why anything hadn't been done so far, and what else the council plans to do to combat this.
- Some raised concerns of previous attempts to run the licensing scheme and what the cost implications were of this and what barriers previously there have now changed.
- Some raised the question on how the council would ensure all private landlords within South ward obtain a selective licence, as to not penalise those who comply with the scheme if put in place.
- Other landlords expressed a desire for the council to document and publish the outcomes of the inspections if the licensing scheme was to proceed, offering transparency and displaying whether the scheme is a success or not.
- Outcomes Safeagent is supportive of initiatives such as selective licensing, providing they are implemented in a way that takes account of the private rented sector's own efforts to promote high standards.
- An anonymous response questioned the need for new enforcement measures when existing law already exist in this area, such as the Homes (Fit for Human Habitation) Act 2018, the Regulatory Reform (Fire Safety) Order 2005 and the Environmental Protection Act 1990. On top of this are the certifications that landlords already need to secure, such as for electrical installations, EPC and gas safety.
- Safeagent noted that they welcome the targeted nature of the licensing proposals.

## Response

Licensing will help identify irresponsible landlords who impact negatively on the reputation of responsible landlords. It will assist landlords that are not familiar with all the requirements for establishing a rental business with what they need to do. It aims to:

- raise conditions and management standards
- improve tenancy arrangements
- help tackle antisocial behaviour

We hope that landlords will see the commercial benefit of being able to advertise their properties as licensed by the council.

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

We also hope that the scheme will contribute to a reduction in the incidences of fly tipping and anti-social behaviour.

## 2. Evidence

### Comments received

- Lack of evidence of licensing working.
- Not enough information / evidence.
- Another suggested the council build an evidence base on other areas where the licensing scheme has been a success.
- Some raised concerns with the level of disrepair outlined in the council's evidence base for the licensing scheme, and why anything hadn't been done so far, and what else the council plans to do to combat this.
- Some raised questions around the evidence base the council provided, wanting to understand further what defines an area, and further detail on category 1 hazards, such as whether or not this was the fault of the tenant rather than the landlord.
- Another anonymous responses also questioned the validity of data presented as part of the consultation. Enforcement and conditions.
- SafeAgent have concerns about the assumed link between the amount of PRS accommodation in the neighbourhood and the incidence of ASB. They state there may be some correlation between incidences of ASB and the prevalence of PRS accommodation on the area.

However, correlation does not imply causation. They would also strongly advise against any proposals which imply a parity of approach between the PRS and the social rented sector, explaining that social landlords are publicly funded and have wider responsibilities in the community with social purpose, whereas PRs landlords and agents should only be responsible for managing this within their properties and not wider social issues.

- PropertyMark believes the council has not provided sufficient evidence that a licensing scheme will be an effective measure to produce a higher standard within the PRS. They feel the scheme would therefore fail to produce the objectives the council is looking to achieve.
- One anonymous respondent stated we haven't provided evidence within the proposal that supports the assertions being made in relation to requirements of legislation being met. They feel the reliance on outdated sources and inaccurate figures or understanding of such reports mean that the assertions being made are misleading and there is not details as to how a scheme would directly affect the and improve the matters which we've highlighted as reason to introduce the scheme.
- Another anonymous responses also questioned the validity of data presented as part of the consultation.
- Not enough information / evidence.
- Many commented that licensing does not offer any benefits to landlords – it is all take and no give. The council creates obligations but does not offer support to comply.
- Some PropertyMark members shared concerns that a very similar selective licensing scheme had been announced twice before which the council had failed to implement.

They acknowledge that the size of the scheme has been reduced, but members were quick to point out that little has changed from the design and objectives of the scheme.

They therefore have little confidence that the scheme will be successful on this third attempt.

## Response

Government research has indicated that selective licensing can be an effective policy tool with many schemes achieving demonstrable positive outcomes.

We believe its evidence base to be sound. Information from the 2021 Census confirms that the private sector housing stock in Luton is 29.2%.

Find more information about category 1 hazards here: [Landlords: is your property fit to live in?](#)

## 3. Antisocial behaviour (ASB)

### Comments received

- Landlords also felt that they weren't solely to be blamed for rises in ASB, stating they can only regulate behaviour within their property. One landlord asked what support the council would be providing private landlords to help combat ASB issues within the local area.
- Not always landlords' responsibility / bad tenants / hold tenants to account.
- SafeAgent have concerns about the assumed link between the amount of PRS accommodation in the neighbourhood and the incidence of ASB. They state there may be some correlation between incidences of ASB and the prevalence of PRS accommodation on the area. However, correlation does not imply causation.
- Licensing will not solve issues (such as ASB, flytipping, cleaning).
- Unfair to landlord as tenants sometimes are to blame.

## Response

We accept that landlords are not fully able to regulate tenant's behaviour but do expect landlords to ensure their tenants are made aware of their responsibilities and to cooperate with our ASB team and the police. Find more information here: [tackling ASB together](#).

Most tenancy agreements should have a clause about tenants' behaviour within and around the dwelling.

You can [find a model tenancy agreement on GOV.UK](#).

Landlords will be expected to advise their tenants of refuse collection days and related information, which you can find here: [waste management - bins and recycling](#)

We hope that the scheme will contribute to a reduction in the incidences of ASB.

## 4. Impact on private rented stock

### Comments received

- One of the anonymous responses suggested landlords would leave the market, leaving the council to have to house a greater number of people.
- Existing landlords may sell up / will put landlords off.
- May reduce availability of housing / existing landlords may sell up.
- Concerns were raised around this scheme forcing landlords to leave the area, who are a

necessity to house residents in the area due to the council having limited social housing options.

## Response

Similar concerns were raised during the council's previous additional licensing scheme which proved unfounded.

## 5. Rogue landlords

### Comments received

- One tenant said that landlords are not working in partnership with the council, using 'rogue-style' agents to manage their properties and create unnecessary disruption for tenants living in their properties.
- Landlords questioned the number of rogue landlords who would be identified in the scheme period, feeling that these individuals would not comply with the scheme and would remain difficult for the council to identify, whilst penalising those that comply already with additional fees.

## Response

The council has a good track record of enforcement, which you can find here: [private sector housing enforcement](#).

We will continue to enforce standards in the private rented sector.

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

## 6. Application form

### Comments received

- Some early adopters of the previous scheme claimed the online application form was difficult to navigate and asked whether it would be easier to operate this time around and clearer, if the scheme was to go ahead.

Others also stated they had issues with this, saying that the applications process will need to be thoroughly tested this time around.

## Response

Applications will be taken using an online app, which is in use at many other councils across the country and has a good track record.

## 7. Enforcement

### Comments received

- Need a system for reporting issues.
- Currently legislation / resources already in place / enforce it.
- Fines for bad landlords.
- Need a system for reporting issues
- PropertyMark are discouraged to see that there are few details on how the council will enforce licensing. While they support a proactive approach to inspections, they are

concerned that there are few details around how the council will conduct this approach and identify landlords who have not been registered.

Currently, the council has only provided detail on the steps they will take once a property operating without a licence has been identified. Before we can support these proposals, they would like to see a more detailed and thorough enforcement plan, with details on:

- how enforcement will be conducted for compliance with new licence conditions
- identifying landlords or homes that have not been registered or likely to be meeting the standards set out in the licence conditions
- Some raised the question on how the council would ensure all private landlords within South ward obtain a selective licence, as to not penalise those who comply with the scheme if put in place.
- Landlords also expressed an interest in understanding the level of staff and resourcing the licence scheme fees would allow the council to have, and whether this would be communicated as a way of showing the fees collected would be used with integrity.
- An anonymous response questioned the need for new enforcement measures when existing law already exist in this area, such as the Homes (Fit for Human Habitation) Act 2018, the Regulatory Reform (Fire Safety) Order 2005 and the Environmental Protection Act 1990. On top of this are the certifications that landlords already need to secure, such as for electrical installations, EPC and gas safety.

## Response

The council has a good track record of enforcement, which you can find here: [private sector housing enforcement](#)

We will continue to enforce standards in the private rented sector.

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

We'll ensure that sufficient officers are employed to administer and enforce the scheme.

## 8. Licence fees

### Comments received

- Costs passed on to tenants / rent will rise / fixed rents needed.
- Not enough information / evidence / more clarity and breakdown.
- Too high / should be lower.
- Appropriate / reasonable / will have positive effect.
- Money making scheme.
- Too low / should be higher.
- Different fee structure depending on size of property / no of properties / value of property Existing landlords may sell up / will put new landlords off.
- Should be free.
- Costs passed on to tenants / rent will rise / fixed rents needed.
- Additional cost (strain) for landlords.
- Tenants did raise some concern that the licence fee would be incorporated into their rent,



having a negative knock on effect on them, even though the outline of the scheme is to the benefit of them. Although protections are in place to what level a landlord can raise rent prices, some tenants felt that landlords will make up multiple excuses to do so.

- Some landlords would like transparency with what the fees are used for as they feel they are already spending a lot of money to make sure people can be housed without subsidising the council.

At the voluntary sector forum, concerns were raised that rent increases have occurred due to a rise in interest rates and adding an additional £488 will lead to further increases.

- SafeAgent feel that a baseline fee of £488 seems reasonable and welcome the fact that the council will offer a flat-rate £150 'early bird' fee if a valid application is received in the first three months of the commencement of the scheme.

They are also supportive of the proposal that, for applications made after the early bird period, the council will offer a £122 discount if the licence holder or their designated property manager are members of an accredited scheme or trade body recognised by the council.

- PropertyMark also felt the fees were reasonable and are glad to see a discount on offer to landlords and agents of an accredited scheme or trade body. They did, however, express disappointment that the council has not offered a discount to those with multiple properties.

The cost of living crisis makes it difficult for landlords who own multiple properties to fund improvements to comply with the licensing schemes.

- An anonymous response praised the pro-rata approach to licence fees proposed by Luton, in contrast to some other councils.
- Should be free.
- Additional cost (strain) for landlords.
- Adjust the fees / change structure / should be free.
- Landlords also expressed an interest in understanding the level of staff and resourcing the licence scheme fees would allow the council to have, and whether this would be communicated as a way of showing the fees collected would be used with integrity.
- Tenants did raise some concern that the licence fee would be incorporated into their rent, having a negative knock on effect on them, even though the outline of the scheme is to the benefit of them. Although protections are in place to what level a landlord can raise rent prices, some tenants felt that landlords will make up multiple excuses to do so.
- Some landlords would like to transparency with what the fees are use for as they feel they are already spending a lot of money to make sure people can be housed without subsidising the council.
- At the voluntary sector forum, concerns were raised that rent increases have occurred due to a rise in interest rates and adding an additional £488 will lead to further increases.

## Response

We believe the fee structure to be quite modest. The licence fee gives you a five year licence – there are no subsequent fees in years 2, 3, 4 or 5. Licences are not transferrable, so if a licensed property is sold, the new owner must apply for a new licence in their own right.

The fees until the end of March 2024 have been set and are as [detailed in the fee structure](#), and are a flat-fee of £488 for a 3 bedroom HMO for a five-year additional licence, with an additional



£122 for each bedroom over 3.

We would expect responsible landlords to absorb the cost of licensing as part of operating a rental business, much in the same way a food business would have a cost associated with registering their business.

The cost for a 5 year licence for a 3 bedroom property, the cost equates to less than £2 per week. The cost of the licence fee can be offset against the business tax costs. Some landlords may subsequently increase rents to recover the costs of the licence but this will be a business decision for them to make

There may be small increases in the fees in subsequent years due to inflation but nothing significant.

The fee for each property requiring a licence will be calculated based on the number of months remaining that the scheme has to run, from the date of application. For example, if you buy a property, which requires a licence, in year 3 of the scheme your licence will be issued for the remaining 2 years and the fee will be two-fifths of the 5-year fee relevant at the time of application.

Properties which are found to be operating without a licence when one is required, will be liable to legal proceedings and will be required to pay the full five-year licence fee and will be issued with a licence for a shorter period ie the remaining period of the scheme.

You can find the fee structure here: [property licensing fees](#)

A discount is available where the landlord or manager of the property is a member of a trade body, recognised by the council, which regulates its members through a code of management practice, such as:

- National Residential Landlords Association (NRLA)
- Association of Residential Letting Agents (ARLA)
- Association of Residential Managing Agents (ARMA)
- Royal Institute of Chartered Surveyors (RICS)
- National Association of Estate Agents (NAEA)
- Safeagent

The membership/registration number will be required during the application process.

We're happy to provide assistance and advice in determining the correct fee for an application.

## 9. Level of inspections and conditions

### Comments received

- Need regular monitoring / checks to enforce conditions / inspections.
- Not enough information / evidence / more clarity and breakdown.
- Legislation or standards already in place / enforce current legislation.
- Appropriate / reasonable / will have positive effect (such as improved standards, hold landlords to account).
- When asked about having any further comments around the proposed selective licence conditions, 18 respondents felt that the conditions did not have enough information or evidence, and that further clarity was needed. 16 responses were also in relation to generally being in disagreement with the proposed conditions.

- SafeAgent also welcome the councils approach to licensing conditions to provide extra security to tenants and driving property standards within the area
- PropertyMark are discouraged to see that there are few details on how the council will enforce licensing. While they support a proactive approach to inspections, they are concerned that there are few details around how the council will conduct this approach and identify landlords who have not been registered.

Currently, the council has only provided detail on the steps they will take once a property operating without a licence has been identified. Before we can support these proposals, they would like to see a more detailed and thorough enforcement plan, with details on:

- how enforcement will be conducted for compliance with new licence conditions
- identifying landlords or homes that have not been registered or likely to be meeting the standards set out in the licence conditions

## Response

We'll undertake inspections of licensed properties to ensure compliance with the licence conditions relevant standards, and will take legal action if necessary. We believe that responsible landlords will already be complying.

Landlords must follow the correct legal process to evict a tenant and there are many rules which must be followed before a section 21 eviction notice can be accepted as valid, for example:

- the deposit must be protected
- the tenant must have been given certain documents
- section 21 eviction notices cannot be given for 6 months if the council have required the landlord to undertake works by serving an improvement notice
- a section 21 eviction notice is not valid if a property is required to be licensed but isn't

You can find more general information here: [Shelter - Section 21 eviction](#).

Each case will be considered on its merits and in accordance with our enforcement policy

## 10. Further comments and alternatives

### Comments received

- Propertymark gave two alternatives for the council to consider:
  - greater engagement with landlords
  - an accreditation scheme for private landlords, which PropertyMark would be interested in supporting the council to implement
- Fines for bad landlords.
- Need regular monitoring / checks to enforce conditions / inspections.
- More partnership working between council and landlords / support from Council for landlords.
- Have a registration scheme instead / make management agent compulsory.
- Safeagent believe that promoting voluntary schemes and offering discounted licence fees to accredited landlords and agents, can help to achieve an improved PRS.

Voluntary schemes often require members to observe standards that are at least compatible with (and are often over and above) those of licensing schemes.

They stated if Luton Council were to allow discounts based on membership of SafeAgent (as well as other similar bodies) implementing and policing the licensing scheme would ultimately be less costly and more effective, allowing resources to be concentrated in the

areas where they are most needed.

- SafeAgent also suggest in cases where a private landlord is assisting the council by offering permanent accommodation to meet homelessness duties, licence applications should be accepted without any fee being payable.
- One anonymous respondent said that the council should be looking at the powers they already have, self regulation and accreditation, as well as working with the Local Government Information Unit through their recent 'House Proud' report.
- Penalises good landlords / bad landlords will continue to operate / just target bad landlords.
- Build more social housing / affordable housing.
- Needs to be expanded further for fairness.
- A tenant suggested a closer relationship between the council and landlords to work as a partnership to tackle local issues and provide further support to managing properties.
- Some landlords suggested more regular communication between the council and them in relation to forums and other discussion platforms to discuss issues and work together to overcome them, rather than provide licence fee schemes which penalise good landlords.
- Some landlords feel that poor landlords will not sign up to the scheme, reducing the impact of the scheme in improving the local area. They felt a more strategic approach was needed rather than a blanket approach.
- Need improved living conditions, standards and safety/ better monitoring and control / protection for tenants.
- Need positive impact on neighbours and the local area (ASB, flytipping, overcrowding) / get rid of slum landlords.

## Response

We've considered re-launching a local landlord accreditation scheme. However, such schemes do not have a statutory basis and as such there could be no penalties for not participating in the scheme.

The only sanction the council could apply to anyone not meeting the scheme requirements would be their removal from the scheme. A previous accreditation scheme, was withdrawn due to a lack of take-up.

We're keen to extend our working relationships with landlords and agents and will implement a series of landlord forums to progress matters

Anyone wishing to report issues to the council can phone us on 01582 547222, or:

- HMOs: email [HMO.Hotline@luton.gov.uk](mailto:HMO.Hotline@luton.gov.uk)
- beds in sheds: email [PSHEnforcement@luton.gov.uk](mailto:PSHEnforcement@luton.gov.uk)
- empty homes: email [empty.homes@luton.gov.uk](mailto:empty.homes@luton.gov.uk)

# 11. Managing agents

## Comments received

- Have a registration scheme instead / make management agent compulsory.
- One tenant was interested in understanding the 'fit and proper' review of landlords, stating that many landlords delegate tasks to managing agents, and how this fit into the scheme in terms of dealing with poorly run private rented property and who takes blame.

## Response

The council must satisfy itself that a proposed licence holder and the manager (if they are different people) are fit and proper persons to hold a licence or to manage a licensable property. The test is applied to the licence holder and any person managing the property and any director or partner in a company or organisation which owns or manages the property.

We may, depending on the offence, take legal proceedings against any, or all, of the following:

- licenceholder
- the manager, or managing agent
- anyone bound by the licence conditions
- the person ultimately receiving the rent

If any of these positions are held by a company, we may prosecute the director(s), manager(s), secretary or other similar officer, in addition to the company.

# 12. Social housing

## Comments received

- Some landlords expressed concerns with the level of disrepair within social housing managed by the council and why they are not included within the scheme.

It was explained that social housing has their own regulations they have to comply with, although another landlord raised concerns that this impacts them as poorer social housing stock leads to increased need for private renting which incurs costs.

- SafeAgent would also strongly advise against any proposals which imply a parity of approach between the PRS and the social rented sector.

They explained that social landlords are publicly funded and have wider responsibilities in the community with social purpose, whereas PRs landlords and agents should only be responsible for managing this within their properties and not wider social issues.

- An anonymous response also stated that social rented housing is excluded from this licensing even though they are the 'largest landlords in Luton'.

## Response

The scope of the licensing scheme is dictated by legislation and is only applicable to the private rented sector.